



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

CASE NO: CT02512ADJ2025

In the matter between:

Kap Limited

Applicant

(Registration Number. 1978/00018/06)

And

Kaps Petroleum (Pty) Ltd

1ST Respondent

(Registration Number. 2023/742053/07)

**COMPANIES AND INTELLECTUAL PROPERTIES
COMMISSION**

2nd Respondent

Date of Decision: 30th April 2026

DECISION

INTRODUCTION

1. The Applicant is **Kap Limited**. It is a duly incorporated South African company, registered under number 1978/00018/06.

2. The First Respondent is **Kaps Petroleum (Pty) Ltd**. It is a duly incorporated South African company, registered under number 2023/742053/07.

3. The Second Respondent is the Companies and Intellectual Properties Commission resident at DTI Campus 77 Meintjies Street

4. The Applicant applies to the Companies Tribunal in terms of Section 11(2) of the Companies Act 71 of 2008 ("the Companies Act"), a name of a company must not be the same as the name of another company, domesticated company, registered external company, close corporation or co-operative and must not be confusingly similar.

APPLICANT'S SUBMISSIONS

5. The Applicant filed its company name objection with the Companies Tribunal and the Applicant served the company name objection on the respondent through the Sherriff. Despite being informed of the application the first respondent does not oppose it.

6. The Applicant submits that it the Respondents name is confusingly similar to its name.

7. The Applicant has several trade marks in the term KAP. The Applicant has been trading since 2003 and has spent extensively on the term KAP.

The Applicant is operative in 11 countries and operates in a wide range of businesses.

8. The Applicant argues that the Respondents' name is confusingly similar to the Applicants' and would deceive the public. It requests that the Respondent be asked to change its name.

NAME DISPUTES

APPLICABLE LAW

9. Section 11 of the Companies Act provides the criteria for names of companies.

Subsection (2) is most relevant and states as follows:

“(2) the name of a company must –

(a) not be the same as, or confusingly similar to –

(i) the name of another company, registered external company, close corporation or co-operative unless the company forms part of a group of companies using similar names;

(ii) ... Not relevant

(iii) a registered trademark belonging to a person other than the company, or a mark in respect of which an application has been filed in the Republic for registration as a trademark or a well-known trademark as contemplated in section 35 of the trademarks act; or

(iv) ... Not relevant

- 2 (b) not falsely imply or suggest, or be such as would reasonably mislead a person to believe incorrectly, that the company –*
- (i) is part of, or associated with, any other person or entity;*

EVALUATION AND FINDINGS

10. The purpose of section 11 of the Companies Act is to protect names from being passed off by new companies registering similar names at the expense of the original name holder of the company or trade mark. In the case before me the First Respondents' name is similar to several trade marks held by the Applicant. The First Respondents Name is similar to the Applicants. Both Have the term KAP in them. This may give members of the public the impression that the Respondent is associated with the Applicant. This may effect the Applicants reputation and financially.
11. The First Respondent is thus ordered to change its name to one that does not include KAP in it.
12. By having the same name as the Applicant members of the public are misled to believe that the Respondent is associated with the Applicant.

NAME RESERVATIONS

ORDER

- a. I find in favour of the Applicant
- b. The First Respondent is directed to change its name to one which does not incorporate KAP and is not confusingly and or deceptively similar to Applicant's.

- c. The First Respondent is to file a notice of an amendment of its Memorandum of Incorporation, within 60 days of receipt of this order in order to change its name as per above.
- d. In the event that the First Respondent fails to comply with the order as aforementioned, within 3 months, from the date of the order, that Companies and Intellectual Property Commission (CIPC) be directed, in terms of Section 160(3) (b) (ii) read with section 14(2) of the Act, to change the First respondent's name to is registered company number being 2023/742053/07 as the First Respondent's interim company name on the Companies register.
- e. The First Respondent is hereby exempted from the requirement to pay the prescribed fee for filing the notice of amendment contemplated in this paragraph.
- f. The Second Respondent is required to register the name applied for by the applicant once the Respondents name is removed from the registrar by the First Respondent or by CIPC within three months of the First Respondent failing to do so.
- g. The registrar of the Tribunal is instructed to bring this ruling to the attention of CIPC.

MOHAMED ALLI CHICKTAY
MEMBER OF THE COMPANIES TRIBUNAL