



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case No: CT02564/ADJ/2026

In the matter between:

PARTISAN TRADING COMPANY (PTY) LIMITED APPLICANT

(2025/417000/07)

and

PARTISAN TRADING AND PROJECTS (PTY) LIMITED FIRST RESPONDENT

(2025/417000/07)

THE REGISTRAR OF COMPANIES SECOND RESPONDENT

Presiding Member of the Companies Tribunal: DR MINAH TONG-MONGALO

Date of Decision: 12 May 2026

DECISION (Reasons and an Order)

A. INTRODUCTION

[1] This is an application by Partisan Trading Company (Pty) Limited (the Applicant) for a determination, in terms of section 160 of the Companies Act 71 of 2008, that the name of the First Respondent, Partisan Trading and

Projects (Pty) Limited, does not satisfy the requirements of section 11 of the Act.¹

- [2] The Applicant relies on its prior company name, its earlier-filed PARTISAN trade mark applications, and its use of PARTISAN in South Africa. It contends that the First Respondent's name is the same as, alternatively confusingly similar to, its protected name and mark, and is likely to mislead the public into believing that the First Respondent is part of, or associated with, the Applicant.²
- [3] The First Respondent has not filed an answer. The Applicant accordingly seeks a default order in terms of regulation 153 of the Companies Regulations, 2011.³

B. THE PARTIES

- [4] The Applicant is Partisan Trading Company (Pty) Limited, a South African private company with registration number 2017/195849/07 and registered address at 15 Hyde Gate, 286 Jan Smuts Avenue, Hyde Park, Gauteng.⁴
- [5] The First Respondent is Partisan Trading and Projects (Pty) Limited, a private company incorporated under the Companies Act with registration number 2025/417000/07 and registered address at Stand No 6837, 2678 Nobelium Street, Pretoria, Gauteng 0122.⁵
- [6] The Second Respondent is the Companies and Intellectual Property Commission (CIPC), established under section 185 of the Companies Act. It is cited in its capacity as custodian of the companies register. No costs are sought against the CIPC unless it opposes the application.⁶

¹ Companies Act 71 of 2008 s 160(1), read with s 11(2).

² Companies Act 71 of 2008 ss 11(2)(a)(i), 11(2)(a)(iii), 11(2)(b), 11(2)(c)(i) and 160(3)(b)(ii).

³ Companies Regulations, 2011 regs 142(2), 143(1) and 153(1).

⁴ Founding Affidavit of Timothy Ray Schultz dated 19 January 2026 paras 1.1-1.3 and annexure TS1.

⁵ Founding affidavit paras 3.1-3.3 and annexure TS2.

⁶ Founding affidavit paras 3.1-3.3 and annexure TS2.

C. PROCEDURAL HISTORY AND DEFAULT

- [7] The Applicant filed its Form CTR 142 application for relief on 22 January 2026. The Companies Tribunal acknowledged receipt on 23 January 2026 and assigned the matter case number CT02564/ADJ/2026.⁷
- [8] On 26 January 2026 the application was served electronically on the First Respondent. On 27 January 2026 the Sheriff Pretoria North East served the application at the First Respondent's registered address by leaving the documents at the principal door, after a diligent search and enquiry disclosed that no person apparently not less than sixteen years of age was present. The return records that the respondent was unknown at the given address.⁸
- [9] The application was also served electronically on the CIPC on 26 January 2026. The First Respondent was required to deliver its answer within 20 business days and, on the Applicant's computation, had until 24 February 2026 to do so. No answer was delivered by the First Respondent or anyone acting on its behalf.⁹
- [10] A default order is not granted merely because the respondent is absent. The Tribunal must still be satisfied that service was adequate, that the prescribed period for a response has expired, and that the facts alleged by the Applicant establish a proper basis for the relief sought.¹⁰
- [11] I am satisfied that the application was adequately served. The sheriff's return reflects service at the registered address, as shown on the CIPC record. That return is reinforced by electronic service on the First Respondent and the CIPC. The fact that the sheriff recorded that the First Respondent was

⁷ Affidavit in support of default judgment of Nishan Singh dated 20 March 2026 paras 4.6-4.9 and annexures NIS2-NIS4.

⁸ Affidavit in support of default judgment of Nishan Singh dated 20 March 2026 paras 4.6-4.9 and annexures NIS2-NIS4. Sheriff Pretoria North East, return of service dated 30 January 2026, recording service on 27 January 2026 at 16h32 at Stand No 6837, 2678 Nobelium Street, Nellmapius, Pretoria.

⁹ Affidavit in support of default judgment of Nishan Singh dated 20 March 2026 paras 4.6-4.9 and annexures NIS2-NIS4.

¹⁰ Companies Regulations, 2011 reg 153(1)-(2). See also *Imperio (Pty) Ltd v Imperio (Pty) Ltd* CT010NOV2017 (Companies Tribunal, 28 February 2018) paras 3-4.

unknown at the address does not, without more, defeat service for present purposes; rather, it confirms the Applicant's diligence in attempting both physical and electronic service. The First Respondent has elected not to participate.¹¹

D. THE APPLICANT'S RIGHTS AND EVIDENCE

[12] The Applicant's evidence is that it filed South African trade mark applications for the word mark PARTISAN under application numbers 2024/11644 in class 25 for clothing, footwear and headwear, and 2024/11645 in class 35 for advertising, business management, business administration, office functions, and the retail and wholesale sale of goods. Both applications were filed on 25 April 2024, before the First Respondent's incorporation.¹²

[13] The Applicant was incorporated in 2017. It describes itself as a premium menswear fashion collective, curating fashion from global labels, local designers and its own Partisan and Co label. It uses the PARTISAN mark on its website and in connection with goods offered for sale. The domain name <partisanandco.com> was registered on 16 March 2018. The Applicant also operates physical stores in Johannesburg, Kimberley, Kathu, Mthatha and Musina.^{13 14}

[14] The Applicant became aware of the First Respondent's company name in October 2025. Its attorneys addressed a letter of demand and proposed undertaking to the First Respondent on 3 October 2025, followed by further correspondence on 18 November 2025. The First Respondent did not respond. The Applicant then instituted this application.¹⁵

¹¹ Affidavit in support of default judgment of Nishan Singh dated 20 March 2026 paras 4.6-4.9 and annexures NIS2-NIS4. Sheriff Pretoria North East, return of service dated 30 January 2026, recording service on 27 January 2026 at 16h32 at Stand No 6837, 2678 Nobelium Street, Nellmapius, Pretoria.

¹² Founding affidavit paras 5.1.1-5.3 and annexures TS3-TS5.

¹³ Founding affidavit paras 5.1.1-5.3 and annexures TS3-TS5.

¹⁴ Founding affidavit paras 6.1-6.4 and annexures TS6-TS8.

¹⁵ Founding affidavit paras 7.1-7.6 and annexures TS8-TS9; confirmatory affidavit of Nishan Singh dated 21 January 2026 paras 1-7.

[15] These facts establish that the Applicant is an interested person within the meaning of section 160(1).¹⁶ The Applicant has demonstrated a direct and substantial commercial and legal interest in the First Respondent's name because it relies on prior rights in the PARTISAN name and mark, its earlier company registration, and its established trading presence under that name. The same facts also establish good cause under section 160(2)(b). The Applicant acted within a reasonable period after becoming aware of the First Respondent's registration, attempted to resolve the matter without formal proceedings, and approached the Tribunal only when those efforts failed. In *Highly Nutritious Food Company (Pty) Ltd v Companies Tribunal and Others*, the High Court confirmed that "good cause" in section 160(2)(b) is not confined to an explanation for delay; the Tribunal must consider the whole matter, including the merits, in determining whether the application should be entertained.¹⁷

E. THE APPLICABLE LAW

[16] Section 11(2)(a)(i) provides that a company name must not be the same as the name of another company. Section 11(2)(a)(iii) provides that a company name must not be the same as a registered trade mark belonging to another person, or a mark in respect of which an application for registration as a trade mark has been filed. Section 11(2)(b) provides that a company name must not be confusingly similar to a name, trade mark, mark, word or expression contemplated in section 11(2)(a), unless the Act permits that similarity. Section 11(2)(c)(i) further prohibits a name that falsely implies or suggests or is such as would reasonably mislead a person to believe incorrectly, that the company is part of, or associated with, another person or entity.¹⁸

[17] A careful distinction must be drawn between a name that is "the same as" another name or mark and one that is "confusingly similar" to it. The Supreme Court of Appeal, relying on *L TJ Diffusion*, has accepted that identity is interpreted strictly: the two elements compared must be the same in all

¹⁶ Companies Act 71 of 2008 s 160(1), read with s 11(2).

¹⁷ *Highly Nutritious Food Company (Pty) Ltd v Companies Tribunal and Others* [2017] ZAGPJHC 471 (22 September 2017) paras 18-19, confirming that "good cause" under s 160(2)(b) is assessed contextually.

¹⁸ Companies Act 71 of 2008 s 11(2)(a)(i), (iii), s 11(2)(b) and s 11(2)(c)(i).

respects, subject only to the de minimis principle. The underlying test is that a sign is identical where it reproduces, without modification or addition, all elements of the protected mark, or where any differences are so insignificant that they may go unnoticed by the average consumer.¹⁹

[18] The test for confusing similarity is broader. It requires a value judgment whether, on a comparison of the marks as they would be used in the ordinary course of business, there is a reasonable likelihood of deception or confusion.²⁰

[19] The comparison is not a mechanical side-by-side exercise. It requires a value judgment based on a global appreciation of the competing names, their overall impression, and their distinctive and dominant components. The Tribunal must consider the visual, aural and conceptual similarities between the names, allowing for imperfect recollection and avoiding undue peering at the names to find similarities or differences. Whether there is a reasonable likelihood of confusion or deception is ultimately a question of fact to be determined in the light of the circumstances of each case.²¹ Where the protected element remains dominant, descriptive or non-distinctive additions will not ordinarily avoid confusion. Corporate-form descriptors such as “(Pty) Ltd”, “Limited” or “NPC” usually add little distinctive value because they merely indicate legal form; however, the Tribunal must still assess the impugned name as a whole and in context.

[20] The Applicant does not have to prove actual confusion. The question is whether a substantial number of persons, using ordinary care, would probably be confused or misled. Nor is the inquiry limited to the present activities of the First Respondent: the public function of a company name includes identifying

¹⁹ *Century City Apartments Property Services CC and Another v Century City Property Owners Association* 2010 (3) SA 1 (SCA) para 12; *LTJ Diffusion SA v Sadas Vertbaudet SA* [2003] ETMR 83 (*European Trade Mark*

Reports) C-291/00, 20 March 2003, paras 50–54.

²⁰ *Cowbell AG v ICS Holdings Ltd* 2001 (3) SA 941 (SCA) para 10.

²¹ *Bata Ltd v Face Fashions CC* 2001 (1) SA 844 (SCA) para 9; *Yuppiechef Holdings (Pty) Ltd v Yuppie Gadgets Holdings (Pty) Ltd* [2016] ZASCA 118; 2016 BIP 269 (SCA) para 26; *Adidas AG and Another v Pepkor Retail Ltd* [2013] ZASCA 3; 2013 BIP 203 (SCA) paras 20–23 and 28.

the company on the register and in commerce, and the name may be used across activities that are not narrowly confined at incorporation.²²

F. ANALYSIS

[21] The Applicant relies, among other things, on sections 11(2)(a)(i) and 11(2)(a)(iii) of the Act. I do not consider it necessary to determine the application on the “same as” ground. The First Respondent’s full name is not identical to the Applicant’s full company name. Nor is it identical to the PARTISAN mark: it incorporates PARTISAN but adds the words “TRADING AND PROJECTS”. The Supreme Court of Appeal has made clear that identity is interpreted strictly and that marks are not identical where the impugned name contains a material addition.²³ That conclusion does not dispose of the application, because the Applicant’s stronger case lies in sections 11(2)(b) and 11(2)(c)(i), namely confusing similarity and the reasonable likelihood that members of the public may incorrectly believe that the First Respondent is part of, or associated with, the Applicant.

[22] The dominant, distinctive, and memorable element of the First Respondent’s name is PARTISAN. That word appears at the beginning of the name and wholly incorporates the Applicant’s PARTISAN mark. It is also the first and most distinctive element of the Applicant’s registered company name, Partisan Trading Company (Pty) Limited.²⁴

[23] The word TRADING appears in both the Applicant’s and First Respondent’s names. The remaining words, “AND PROJECTS”, do not meaningfully distinguish the First Respondent. They are broad, descriptive and capable of covering a range of commercial undertakings. They do not displace the immediate impression created by PARTISAN TRADING.²⁵

²² *Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) 640G-641E; Cowbell para 10.

²³ *Century City Apartments Property Services CC and another v Century City Property Owners’ Association* 2010 (3) SA 1 (SCA) para 13. See also *LTJ Diffusion SA v Sadas Vertbaudet SA* Case C-291/00, 20 March 2003, paras 50–54.

²⁴ Founding affidavit paras 5.1.1-5.3 and annexures TS3-TS5.

²⁵ *Bata Ltd v Face Fashions CC* 2001 (1) SA 844 (SCA) para 9; see also *Adidas AG and Another v Pepkor Retail Ltd* [2013] ZASCA 3 (28 February 2013) paras 20-24 and 28.

- [24] The overall comparison is therefore between PARTISAN TRADING COMPANY and PARTISAN TRADING AND PROJECTS. To an ordinary member of the public with imperfect recollection, the names are strongly similar visually, aurally and conceptually. Both begin with the identical word PARTISAN, and both proceed to the word TRADING. The differences lie at the tail-end of the name and are materially less memorable.
- [25] The likelihood of confusion is reinforced by the Applicant's evidence of use. The Applicant conducts a retail fashion business, has a website and has stores in several South African towns and cities. The First Respondent's use of "Trading" in its name naturally suggests a commercial or retail-facing undertaking. In that context, a member of the public could reasonably assume that Partisan Trading and Projects (Pty) Limited is a related entity, project vehicle, trading arm or associated undertaking of the Applicant.²⁶
- [26] This is not a case where the shared element is purely descriptive or weak in relation to the Applicant's goods and services. PARTISAN is the Applicant's chosen badge of origin and the subject of earlier trade mark applications. Its incorporation as the first word in the First Respondent's company name is likely to create an association in the mind of a person encountering the name on the companies register, on correspondence, invoices, tenders, signage, online references or other commercial communications.
- [27] The First Respondent has provided no explanation for adopting PARTISAN TRADING as part of its name. There is no evidence of consent, no evidence of independent entitlement to the word PARTISAN, and no evidence that the First Respondent has taken steps to avoid confusion despite the demand sent to it.²⁷

²⁶ Founding affidavit paras 6.1-6.4 and annexures TS6-TS8.

²⁷ Founding affidavit paras 7.1-7.6 and annexures TS8-TS9; confirmatory affidavit of Nishan Singh dated 21 January 2026 paras 1-7.

[28] I am accordingly satisfied that the First Respondent's name is confusingly similar to the Applicant's prior company name and earlier-filed PARTISAN trade mark applications, contrary to section 11(2)(b). I am also satisfied that the name is such as would reasonably mislead a person to believe incorrectly that the First Respondent is part of, or associated with, the Applicant, contrary to section 11(2)(c)(i).

G. RELIEF

[29] Section 160(3)(b)(ii) empowers the Tribunal, after finding that a company name does not satisfy the Act, to make an administrative order directing the company to choose a new name and to file a notice of amendment of its Memorandum of Incorporation.²⁸

[30] The Applicant seeks an order that, should the First Respondent fail to change its name within 60 days, the CIPC be directed to record the First Respondent's registration number followed by "(Pty) Ltd" as its interim name. That relief is consistent with section 14(2), read with section 160(3)(b)(ii), and with the approach taken in similar name-dispute orders where a respondent fails to comply with a Tribunal name-change order.²⁹

[31] The Applicant sought costs only in the event of opposition. The matter is unopposed. There is therefore no costs order.

H. ORDER

[32] Consequently, the following order is made:

32.1 The First Respondent's name, Partisan Trading and Projects (Pty) Limited, does not satisfy the requirements of sections 11(2)(b) and 11(2)(c)(i) of the Companies Act 71 of 2008.

²⁸ Companies Act 71 of 2008 s 160(3)(b)(ii).

²⁹ Companies Act 71 of 2008 s 14(2), read with s 160(3)(b)(ii). See *Comair Limited v Kulula South Africa (Pty) Ltd and Others*, Gauteng Division, Pretoria, case no 65895/2019, order dated 24 May 2021 paras 2-3.

- 32.2 The First Respondent is directed to change its name to one which does not incorporate PARTISAN and which is not confusingly similar to the Applicant's PARTISAN mark or Partisan Trading Company (Pty) Limited name.
- 32.3 The First Respondent must file the required notice of amendment of its Memorandum of Incorporation with the CIPC within 60 calendar days of service of this decision and order on it.
- 32.4 If the First Respondent fails to comply with paragraphs (b) and (c), the CIPC is directed to record the First Respondent's registration number, followed by "(Pty) Ltd", as its interim company name on the companies register.
- 32.5 The Recording Officer of the Companies Tribunal is directed to serve this decision and order on the parties.
- 32.6 There is no order as to costs.

Dr MINAH TONG-MONGALO