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IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case no: CT02671ADJ2026

In the matter between:

BRYTE INSURANCE COMPANY LIMITED

Applicant

And

BRYTE BUSINESS ENTERPRISE (PTY) LIMITED

1st Respondent

(Registration No 2025/955312/07)

And

COMPANIES AND INTELLECTUAL PROPERTY

COMMISSION

2nd Respondent

Presiding Member of the Companies Tribunal: HLALELENI KATHLEEN DLEPU

Date of Decision: 23 May 2026

DECISION and REASONS

1. INTRODUCTION

- 1.1. The Applicant brought this application brought in terms of Section 160 of the Companies Act 71 of 2008 for an order that the First Respondent's company name, Byte Business Enterprise (Pty) Limited does not satisfy the requirements of Section 11(2) (a)(iii),11(2)(b) and 11(2)(c)(i)of the Companies Act and that the First Respondent be directed to choose a new name, which does not consist of or incorporate, the mark BRYTE or any other mark which is confusingly and /or deceptively similar to the Applicant 's BRYTE trademark as provided for in Section 160,and sub-section (3)(b)(ii) of the Companies Act.
- 1.2. In the event that the First Respondent fails to comply with the order set out in paragraph 1.1. above within 2 months from the date of the order that the Second Respondent be directed in terms of Section 160(3) (b) (ii) read with Section 14(2) of the Companies Act to change the First Respondent 's name to "2025/955312/07 (Pty) Limited" as the First Respondent's interim company name on the Companies Register.
- 1.3. An order as to costs in favour of the Applicant in terms of Regulation 156 of the Act

2. THE PARTIES

- 2.1. The Applicant is Bryte Insurance Company Limited, a company duly incorporated and registered in terms of the laws of the Republic of South Africa with the registration number 19365/006764/06 with its registered address at 15 Biermann Avenue, Rosebank Towers, Rosebank,2196, Gauteng. South Africa. The Applicant is the proprietor of statutory and common law rights in the well-known BRYTE trademark in South Africa.

- 2.2. The First Respondent is Bryte Business Enterprise (Pty) Limited a company duly incorporated in accordance with the company laws of the Republic of South Africa with registration number 2025/955312/07 with its registered address at Stand No, 1306, Swalala Trust, Mpumalanga 1240
- 2.3. The Second Respondent is the Companies and Intellectual Property Commission (CIPC) established by Section 189 of the Companies Act with its address at DTI Building, Block F, Meintjies Street, Sunnyside, Pretoria.

3. **THE APPLICATION**

- 3.1. The Applicant has an interest in the name of the First Respondent within the meaning of Section 160(1) of the Act to file this Application to the Companies Act. The Applicant's interest will appear from the facts were initiated and documented by the Applicant in its affidavit in particular the Applicants trademark rights in and to the BRYTE trademark.
- 3.2. On the 26 March 2026 The Applicant filed an Application herein referred to as the Main Application in terms of Form CTR 142 were served on the First Respondent electronically by email, being [m\[...\]@gmail.com](mailto:m[...]@gmail.com) as prescribed in terms of Rule 4A of the Uniform Rules of Court read with Annexure3 of Table CR3 of the Companies Act Regulations,2011.The copy of the email was attached to the Applicants Affidavit as an annexure.
- 3.3. The Applicant instructed the Deputy Sheriff of the High Court to serve a copy of the Application at the registered address of the First Respondent. The Sheriff attempted to serve on the 1st April 2026 a copy of the return of non-service which return of non-service was attached to the Applicants affidavit, despite the Sheriff's efforts to serve on the First Respondent the detailed

- return of non-service by the Deputy Sheriff states that the stand number could not be located, and other efforts by the Deputy Sheriff making enquiries from residents and local businesses around the area could not yield any results.
- 3.4. Accordingly there was no other physical address available listed on the CIPC documents where the First Respondent could be served. The documents were also served on the Second Respondent by email also on the 26th of March 2026.
 - 3.5. The Applicant therefor submits that the application for relief was properly served on the First and Second Respondents in terms of Regulation 143 of the Companies Act and the First Respondent had until the 28th April to file and serve its answer to the main Application.
 - 3.6. It is evident from the sequence of events and numerous attempts made by the Applicant to serve the Application on the First Respondent there was no other available means to serve the Application on the First Respondent. The Applicant submits that he has met all the requirements for service under the Companies Act and the Uniform Rules of the High Court .
 - 3.7. Having considered the Applicants' submissions on attempts to make the First Respondent aware of the application, I am satisfied that the applicant has made out a case for the main application to be considered by default against the First Respondent.

4. THE BACKGROUND OF THE APPLICANTS CASE

- 4.1. In support of this Application the Applicant attached supporting affidavits in the names of Nicholas Francis and confirmatory Affidavits of Gérard Muller du Plessis, Esmé Van Rooyen, and Maya Daniella Drummond out the facts upon which the Applicant relies on both duly authorised by resolutions. Attachments to the Applicants Affidavit included amongst others Disclosure Certificate

- issued by the Commissioner of the CIPC in respect Bryte Insurance Company Limited and all the required authority to launch the Application.
- 4.2. The Applicant had submitted in its main application that it has an interest in the name of the First Respondent within the meaning of Section 160(1) of the Companies Act 71 of 2008 in the following respects;
 - 4.3. The Applicant is the proprietor in South Africa of, inter alia, the following trademarks which were registered as contemplated in Section 35 of the Trade Marks Act, 1993 (Act 194 of 1993), including the registration in terms of the Business Names Act, 1960 (Act 27 of 1960) and Merchandise Marks Act 17 of 1941 all these acts protect all the names which have been registered under the Acts that no other entity should register a similar name, trademark in a manner that is confusingly similar to a name trademark belonging to another company which has registered and filed such name, trademark.
 - 4.4. The dominant and memorable portions of the First Respondent BRYTE BUSINESS ENTERPRISES (PTY) LIMITED is “BRYTE” which is phonetically and conceptually identical to the Applicant’s well known BRYTE trademark. The remaining elements of the First Respondent’s name “BUSINESS ENTERPRISE” is purely descriptive and do not serve adequately to distinguish the company name from the Applicant’s well-known “BRYTE” trademark.
 - 4.5. As a result of the extensive use and promotion of the Applicant’s BRYTE trademark it is very likely that the members of the public will assume that the First Respondent is in some manner, associated with the name or trademark, or endorsed by the Applicant, when this is not the case.
 - 4.6. The incorporation of the “BRYTE” trademark in the First Respondent’s name is not sanctioned or authorised by Applicant.
 - 4.7. The Applicant’s registered rights in its BRYTE trademark date back to 2016 and the BRYTE trademark has been used by the Applicant for several years in South Africa and other countries throughout the world, the Applicant has included in its affidavit details of the registered trademarks 14 (fourteen), their registration numbers, class and what commodity, services each trademark

- covers copies of the trademark information sheets extracted from the Register of Trademarks is also attached in detail annexures to the Applicants Affidavit.
- 4.8. The Applicant and its business are constantly profiled and reported on in both local and international publications, the press, and the internet as “BRYTE”.
 - 4.9. The Applicant has an interest in the First Respondents name within the meaning of Act as the name incorporates the Applicants mark “BRYTE”. In terms of Section 29(b) of the Trademark Act 194 of 1993 (hereinafter referred to as “the Trademarks Act”), the Applicant ‘s trademark rights are enforceable with effect from the date of filing of its trademark application. In terms of Section 29 of the Trademark Act, that date shall be deemed to be the date of registration.
 - 4.10. In support of their request for an order the Applicants referred the Tribunal to the principles as laid down in the matter before the **Tribunal Case, No CT00875/ADJ/2021) Comair Limited v Kulula Holdings (Pty Limited** which dealt in details that by including the name “**HOLDINGS** ” included in the First Respondent name ,does not sufficiently distinguish the First Respondent name as it is purely descriptive and not serving to adequately distinguish the First Respondents name form Comair’s trademark which is the same as “**BUSINESS ENTERPRISES** “ in this matter ,it does not distinguish adequately from the Applicants’ name which can easily be associated with the Applicants name.

5. APPLICABLE LAW

- 5.1. Section 160(1) of the companies act provides that:

“any other person with an interest in the name of a company, may apply to the Companies Tribunal in the prescribed manner and form for a determination whether the name, or the reservation, registration or use of the name, or the transfer of any such reservation or registration of a name, satisfies the requirements of this Act”.

- 5.2. Section 160(2)(b) of the Companies Act provides that:

“An application in terms of Subsection (1) may be made...on good cause shown at any time after the date of the reservation or registration of the name that is the subject of the application, in any other case”.

- 5.3. Sections 11(2)(a)(iii), 11(2)(b)(iii); and 11(2)(c)(i) of the Companies Act, in as far as they are applicable, read as follows;

“(2) The name of a company must

(a) not be the same as –

(i) ...

(ii) ...

(iii) a registered trade mark 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 trade mark or a well-known trade mark as contemplated in section 35 of the Trade Marks Act, 1993 (Act No. 194 of 1993), unless the registered owner of that mark has consented in writing to the use of the mark as the name of the company.

(b) not be confusingly similar to a name, trademark, mark, word, or expression contemplated in paragraph (a) unless-

(i) ...

(ii) ...

(iii) in the case of a name similar to a trademark or mark referred to in paragraph (a)(iii), the company is the registered owner of the business name, trademark, or is authorised by the registered owner or to use it; or ...

(c) 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...”

- 5.4. the question is whether the First Respondent's name and the Applicant's trademark are confusingly similar as envisaged in Section 11(2)(b) (iii) read with Section 11 (2)(a)(iii) of the Companies Act.
- 5.5. The Applicant conducts and operates a vast variety of mining, other services including consultancy and scientific and technical services, surveys an exploration its registered trademarks and name are of exclusive use by the Applicants and also protected under the common law, and although the nature of the First Respondent's Company is not known or clear, the use of the Applicant's name by the First Respondent is confusingly similar to the Applicant's name and trademarks. This elevates the risk of confusion between the Applicant's trademark and the First Respondent's name, products, and services in the marketplace.
- 5.6. I further agree the confusion and/or deception, can lead to injury to the Applicant's business. This is particularly so when it is considered that the Applicant has absolutely no control whatsoever on the quality and type of goods sold and services rendered by the Company.
- 5.7. The visual, phonetic, and conceptual similarities between the First Respondent's name and the Applicant's trademark may mislead or confuse others into believing that there is some authorised connection and/or association in the course of trade between the products and/or services offered by the First Respondent with those of the Applicant, when, from the evidence before me, that it not the case.
- 5.8. *In **Plascon-Evans Paints (TVL) Ltd. V Van Riebeeck Paints (Pty) Ltd.** (**Plascon-Evans, CORBETT JA quoted** MARGO J, delivering the judgment in *International Power Marketing (Pty) Ltd v Searles Industrials (Pty) Ltd. 1983(4) SA 163 (T)*, as follows on the meaning of the words “as to be likely to deceive or cause confusion”.*

“the main legal principles relevant to the decision of the instant case may be briefly summarised as follows:-

*In an infringement action the onus is on the plaintiff to show the probability or likelihood of deception or confusion.... it is enough for the plaintiff to show that a substantial number of persons will probably be confused as to the origin of the goods or the existence or non-existence of such a connection ... **the comparison must be made with reference to the sense, sound and appearance of the marks.** The marks must be viewed as they would be encountered in the marketplace and against the background of relevant surrounding circumstances. **The marks must not only be considered side by side, but also separately. It must be borne in mind that the ordinary purchaser may encounter goods, bearing the defendant’s mark, with an imperfect recollection of the registered mark and due allowance must be made for this.** If each of the marks contains a main or dominant feature or idea the likely impact made by this on the mind of the customer must be taken into account. As it has been put, marks are remembered rather by general impressions or by some significant or striking feature than by a photographic recollection of the whole. And finally, consideration must be given to the manner in which the marks are likely to be employed as for example, the use of name marks in conjunction with a generic description of the goods”.*

- 5.9. **CORBETT JA:** stated further at **paragraph 47 in Plascon Evans** “...in my view, a purely verbal comparison is not enough. As I have said, in cases such as this the Court must transport itself to the marketplace and try to visualize how customers of the goods, in relation to which the marks are used, would react “.

6. **FINDINGS**

- 6.1. I find that the Applicant has shown good cause to bring this application under section 160 of the Companies Act.

- 6.2. I further find that the First Respondent's name is so confusingly similar to the Applicant's trademark that it falsely implies or suggests that, or reasonably mislead a person to believe incorrectly, that the Company is part of, or associated with, the Applicant in contravention of section 11(2)(c) of the Companies Act.
- 6.3. Considering the conspectus of the case cited above and the guidance from the above case, I conclude that the First Respondent's name runs foul of the provisions of sections 11(2)(b)(iii) read with section 11(2)(a)(iii) and Section 11(2)(c) (i) of the Companies Act.

7. **ORDER**

I hereby grant the following relief by default judgement:

- 7.1. The First Respondent is ordered to change its name to one which does not consist of, or incorporate, the mark **"BRYTE" (and that Business Enterprises is purely descriptive)** or any other mark which is confusingly and/or deceptively similar to the Applicant's **"BRYTE"** trademark.
- 7.2. The Second Respondent is directed to change the name of the First Respondent to its registration number, in the event of the First Respondent not complying with point 18.1 above within 30 days(1 month) from the date of this order the second respondent to change the first respondents name to its registration number being **"2025/955312/07"** as the First Respondents new company name on the companies register that; and
- 7.3. The Second Respondent notify the First Respondent within 14 days of this order.
- 7.4. No order as to costs.

H K Dlepu Member of the Tribunal