IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case no.: **CT02599ADJ2026**

In the matter between:

INVESTEC BANK LIMITED	Applicant
and	
GREEN INVESTEC PROJECTS (PTY) LTD	First Respondent
COMMISSIONER OF THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION	Second Respondent

Presiding member: Richard Bradstreet
Date of decision: 3 June 2026

DECISION (Reasons and Order)

---

1. This application concerns a company name objection brought in terms of section 160 of the Companies Act 71 of 2008 ("the Act"), in which the Applicant seeks a determination that the First Respondent's name does not satisfy the requirements of section 11 of the Act. The Applicant further seeks a default order in terms of regulation 153 of the Companies Regulations 2011, the First Respondent having failed to file an answering affidavit in response to the application.

2. The basis of the Applicant's objection is its rights in the well-known INVESTEC trade mark, of which it is the registered proprietor in South Africa across numerous classes. The Applicant contends that the First Respondent's name incorporates, or closely approximates, this distinctive mark as its dominant element, and that such use is unauthorised. It is submitted that, as a result, the First Respondent's name is confusingly similar to the INVESTEC trade mark and is likely to mislead members of the public into believing that the First Respondent is associated with, or forms part of, the Applicant's business.

3. The application was duly filed with the Companies Tribunal and served on the First Respondent on 13 February 2026 by electronic mail to the email address recorded on the CoR15.1A form lodged with the CIPC at the time of the First Respondent's registration. The First Respondent failed to file any answering affidavit within the prescribed time period. The Applicant thereafter instituted an application for default judgment in terms of regulation 153.

4. There has been adequate service, and thus compliance with regulation 153(2)(*b*). It also appears that the Applicant passes the "good cause" test, in that a reasonable explanation is given as to why the application should be heard by the Tribunal, and there has been no undue delay in bringing the application.

5. The application accordingly now falls to be determined on a default basis, and it is therefore necessary to consider whether the Applicant has made out a case for the relief sought.

APPLICABLE LEGAL FRAMEWORK

6. Section 160(1) of the Act provides that any person with an interest in the name of a company may apply to the Companies Tribunal for a determination whether the name satisfies the requirements of section 11.

7. Section 11(2) of the Act provides, *inter alia*, that a company name must not:

   7.1. be the same as a registered trade mark belonging to another person;

   7.2. be confusingly similar to such a trade mark; or

   7.3. falsely imply or suggest, or be such as would reasonably mislead a person to believe incorrectly, that the company is part of or associated with another person.

Confusing similarity

8. "Similar" in section 11(2)(b) means "having a marked resemblance or likeness" (*Bata Ltd v Face Fashions* CC 2001 (1) SA 844 (SCA) para 14).

9. Determining whether there is a confusing similarity involves a value judgment (*Cowbell AG v ICS Holdings* 2001 (3) SA 941 (SCA) para 10), and presupposing that the marks are to be used together in a normal and fair manner, in the ordinary course of business (*SmithKline Beecham Consumer Brands (Pty) Ltd (formerly known as Beecham South Africa (Pty) Ltd) v Unilever plc* 1995 (2) SA 903 (A) at 912H; cited in *Cowbell* supra at para 10).

10. In particular, one must ask whether there is "a reasonable likelihood that ordinary members of the public, or a substantial section thereof, may be confused or deceived into believing" that the goods or services of one are those of another or are connected therewith (*Adidas AG & another v Pepkor Retail*

Limited 2013 BIP 203 (SCA) para 28; *Capital Estate and General Agencies (Pty) Ltd & others v Holiday Inns Inc & Others* 1977 (2) SA 916 (A) at 929C).

11. One must consider how the two marks will be perceived by the "ordinary reasonable careful man, i.e. not the very careful man nor the very careless man" (*Link Estates (Pty) Ltd v Rink Estates (Pty) Ltd* 1979 (2) SA 276 (E) at 280) bearing in mind that the comparison in the mind of such person will not be undertaken with the two marks presented side by side, and for this reason allowance must be made for the ordinary imperfections of human memory (i.e. the so-called "doctrine of imperfect recollection"; see *Ewing t/a The Buttercup Dairy Company v Buttercup Margarine Company Ltd* (1917) 34 RPC 232 at 232 and 238).

ANALYSIS

12. The determination of confusing similarity is, as the authorities set out above make clear, a value judgment (*Cowbell* supra), to be undertaken on the assumption that the First Respondent's name and the Applicant's mark will each be used in a normal and fair manner in the ordinary course of business (*SmithKline Beecham* supra).

13. Approaching the matter on that footing, the dominant and memorable element of the First Respondent's name, Green Investec Projects (Pty) Ltd, is the mark "INVESTEC". The flanking words "Green" and "Projects" are ordinary descriptive English words: "Green" being commonly used in modern commerce to denote environmentally conscious activities, and "Projects" being a generic indicator of the type of undertaking. Being devoid of any distinctiveness of their own, these words do little to engage the attention or the memory of the notional

consumer, whether taken alone or in combination, and their addition to a registered mark cannot serve to dispel confusion. The resemblance between the two names is, in consequence, not merely "marked" in the sense contemplated in *Bata* supra, but, as to their dominant feature, complete.

14. That conclusion is fortified by the inherently distinctive nature of "INVESTEC" itself. It is not an ordinary English word, but an invented one, which the Applicant has used in South Africa for over five decades, and which has acquired very substantial reputation and goodwill in the banking and financial services sector. The more distinctive the mark, the more readily its incorporation into a longer name will be perceived by the ordinary reasonable consumer as a reference to the registered proprietor of the mark, rather than as a coincidence of language.

15. That tendency is stronger once allowance is made for the imperfect recollection of the notional consumer (*Ewing* supra), who does not encounter the competing names side by side. In the recollection of the "ordinary reasonable careful man, i.e. not the very careful man nor the very careless man", the descriptive matter falls away, and it is the distinctive and arresting element "INVESTEC" that is retained and called to mind.

16. Applying, then, the test formulated in *Adidas* supra, I am satisfied that there is a reasonable likelihood that ordinary members of the public, or a substantial section of them, would be confused or deceived into believing that the First Respondent's undertaking is connected in the course of trade with the Applicant – specifically, that the First Respondent operates as a subsidiary, division, affiliate, or related project-based venture of the Applicant, which it does not. That is, in my view, the way in which a composite name in the form "Green

[registered mark] Projects" would naturally be read by the ordinary reasonable consumer on encountering it in the ordinary course of business.

17. The First Respondent's name is accordingly confusingly similar to the Applicant's INVESTEC trade mark, and also falsely implies or suggests an association with the Applicant. It therefore does not satisfy the requirements of sections 11(2)(b) and 11(2)(c)(i) of the Act.

COSTS

18. The Applicant has expressly sought costs. The Tribunal's ordinary practice on default applications of this kind is to make no order as to costs, particularly where the First Respondent appears to have adopted the impugned name without malice and where the matter is determined on an unopposed basis without the need for a hearing. I am reluctant to award costs in the present matter given that the First Respondent has not had any opportunity to make representations in relation to the issue.

ORDER

19. In the result, I make the following order:

    (a) The application for default relief is granted.

    (b) The First Respondent is directed to:

        (i) change its name to one which does not incorporate "INVESTEC" or any confusingly similar word, and

        (ii) file a notice of amendment to its Memorandum of Incorporation within 3 (three) months of the date of this order.

(c) In the event that the First Respondent fails to comply with paragraph (b) above, the Second Respondent is directed to substitute the First Respondent's registration number as its interim company name.

_____

Richard Bradstreet
Member of the Companies Tribunal

3 June 2026