



IN THE COMPANIES TRIBUNAL OF THE REPUBLIC
OF SOUTH AFRICA

Case Reference: CT02398ADJ2025

In the matter between:

NEDBANK LIMITED

APPLICANT

AND

AAVO PAY (PTY) LTD

FIRST RESPONDENT

AAVO PRIVATE WEALTH (PTY) LTD

SECOND RESPONDENT

AAVO FINTECH (PTY) LTD

THIRD RESPONDENT

**Commissioner of the Companies
and Intellectual Property Commission**

FOURTH RESPONDENT

Coram: D Terblanche

Date: 18 June 2026

DECISION AND REASONS

PARTIES

- [1] The Applicant is Nedbank Limited (registration number: 1951/000009/06), a South African company duly incorporated and registered, with its registered place of business at Nedbank, 135 Rivonia Campus, 135 Rivonia Road, Sandown, Sandton, Johannesburg, Gauteng, 2196.
- [2] The First Respondent is Aavo Pay (Pty) Ltd (registration number: 2023/218642/07), a South African company with its registered address at 212 Bramfisher, Kensington, Randburg, Gauteng, 2194.
- [3] The Second Respondent is Aavo Private Wealth (Pty) Ltd (registration number: 2023/201625/07), a South African company with its registered address at 222 Rivonia Road, Morningside Office Park, Sandton, Gauteng, 2196.
- [4] The Third Respondent is Aavo Fintech (Pty) Ltd (registration number: 2023/218508/07), a South African company with its registered address at 222 Rivonia Road, Morningside Office Park, Sandton, Gauteng, 2196.
- [5] The Fourth Respondent is the Commissioner of the Companies and Intellectual Property Commission, cited in his official capacity as the person responsible for the functions of the Commission in terms of the Companies Act 71 of 2008 ("the Act"). The Fourth Respondent is the custodian of the Companies Register and is the authority responsible for effecting changes to company names if so ordered.

THE APPLICATION

- [6] The Applicant brings this application in terms of Section 160 of the Act for a determination and order that the names of the First to Third Respondents do not satisfy the requirements of Section 11 of the Act.

[7] The Applicant seeks an order directing the First to Third Respondents to change their names to names that do not contravene Section 11; failing which, the Fourth Respondent must change the Respondents' names to their registration numbers, as provided for in Section 160(3)(b)(ii) of the Act.

The Background, Applicant's allegations and Grounds for Objections that follow appear from the Applicant's founding and supplementary affidavits.

BACKGROUND

[9] The Applicant became aware of the Respondents' existence in November 2024. On 17 February 2025, a formal letter of demand was sent to the Respondents' common director, Jerifanos Mashamba, calling for the company names to be changed.

[10] Follow-up emails were sent on 10 March 2025, 8 April 2025, and 16 May 2025. The Respondents failed to respond to any of these communications.

[11] Due to the continued presence of the Respondents on the Companies Register and the absence of any reply, the Applicant was left with no alternative but to lodge this formal objection.

[12] On 8 September 2025, the Applicant filed an application for relief with the Companies Tribunal ("the Tribunal"), seeking an order directing the First to Third Respondents to change their names on the basis that they contravene Section 11(2) of the Act. The application is supported by a Form CTR 142, as prescribed by Regulation 142(1) of the Companies Regulations, 2011, and a founding affidavit setting out the facts and grounds upon which the application is based.

[13] The Tribunal issued the date-stamped CTR 142 form on 17 September 2025.

[14] On 19 September 2025, the Applicant's attorneys served a copy of the application for relief, together with the accompanying founding affidavit, on the First to Third Respondents *via* email. This service was effected within the prescribed five business

days from the date of filing the application, in accordance with Regulation 142(2) of the Act.

[15] In terms of Section 6(1) of the Act, read with Regulation 7(1) and Table CR3, service by email is a permitted method of service. The Applicant attached proof of delivery of the email to its subsequent default application.

[16] The 20-business-day period afforded to the First to Third Respondents within which to file their answering affidavit, in terms of Regulation 143(1) of the Act, has since lapsed.

[17] To date, the First to Third Respondents have not filed an answering affidavit in response to the Applicant's application for relief, despite having been properly made aware of the proceedings.

[18] On 27 October 2025, the Applicant's attorneys enquired with the Tribunal whether the Respondents had filed any answering affidavit. The Tribunal confirmed that it had not received any response from the Respondents.

[19] In terms of Regulation 153(1) of the Companies Regulations, 2011, where a person served with an initiating document has not filed a response within the prescribed period, the initiating party may apply to the Tribunal for a default order.

[20] In terms of Regulation 153(2)(b), the Tribunal may make an appropriate order if it is satisfied that the notice of application was adequately served. The Applicant submits that service was adequately effected upon the Respondents.

APPLICANT'S ALLEGATIONS

[21] The Applicant is the intellectual property holding company of the Nedbank Group and the registered proprietor of numerous trade marks incorporating the mark "AVO".

[22] The Applicant is the proprietor, in South Africa, of numerous registered trade marks for or incorporating "AVO", including the trade mark "AVOCADO". Copies of recent

extracts from the Trade Marks Register confirming the Applicant's registered rights are annexed to the founding affidavit.

- [23] The Applicant's earliest statutory rights arising from the outlined registrations predate the date of incorporation of all three Respondents.
- [24] All use of the "AVOCADO", "AVO", and "AVO"-incorporating trade marks is made under licence from the Applicant and inures to its benefit.
- [25] In May 2020, the Applicant launched a digital ecommerce "Super App" called "AVO" (the AVO SuperShop).
- [26] Prior to the launch, in November 2019, the Applicant applied to register the trade marks "AVOCADO" and "AVO" for this offering, thereby establishing priority.
- [27] The AVO platform hosts major merchants (including Woolworths, Nando's, and Clicks) and has expanded into a diverse range of goods and services.
- [28] The platform was an instant success and grew exponentially: it had over 2 million customers by March 2023, connecting thousands of merchants.
- [29] The app has achieved extensive downloads—for example, over 707,000 downloads on the Huawei AppGallery and over 100,000 downloads on Google Play—and consistently receives high user ratings.
- [30] A Google search for the term "avo" places the Applicant's AVO SuperShop and its related webpages as the first search results.
- [31] Since its launch, the Applicant has embarked on massive annual marketing and advertising campaigns across South Africa, utilising television, social media, web platforms, and strategic partnerships.

[32] The AVO trade marks are prominently displayed on all promotional material, websites, social media pages (including Facebook, X, and Instagram, which have significant followings), and mobile app stores.

[33] The Applicant has won numerous prestigious awards (for example, the Qorus-Accenture Banking Innovation Awards) and has been regularly featured in major news publications since May 2020.

[34] The annual turnover for services rendered under the AVO marks in South Africa is substantial.

[35] Consequently, the Applicant has acquired an enormous reputation and substantial goodwill in its AVO trade marks. The marks are now synonymous with, and distinctive of, the Applicant, holding significant commercial value and affording the Applicant substantial common law rights.

[36] The Applicant submits that the AVO trade marks qualify for protection as well-known trade marks within the meaning of Section 34(1)(c) of the Trade Marks Act 194 of 1993.

[37] Given the Applicant's established prior use, massive consumer recognition, enormous reputation, and well-known status in the "AVO" mark, the registration of the name "AAVO"—which incorporates the dominant and distinctive "AVO" element with a mere prefix—would likely:

- contravene Section 11(2)(b) by being confusingly or deceptively similar to the Applicant's established AVO marks, leading to consumer confusion; and
- contravene Section 11(2)(c) by falsely implying or suggesting an association, connection, or affiliation with the Applicant and its well-known AVO SuperShop.

GROUND OF OBJECTION

- [38] The Applicant has a direct commercial interest in the Respondents' names, and there is good cause to object based on the Applicant's extensive statutory and common law trade mark rights. The Applicant has diligently pursued this objection without undue delay since discovering the Respondents.
- [39] In all three of the Respondents' names (Aavo Pay, Aavo Private Wealth, and Aavo Fintech), the dominant and memorable element is "AAVO", which differs from the Applicant's distinctive "AVO" mark by only one additional letter—a negligible and insufficient distinction.
- [40] The additional words "Pay", "Private Wealth", and "Fintech" are merely descriptive and do not serve to distinguish the Respondents' names from the Applicant's well-known marks. To the contrary, they exacerbate the likelihood of confusion because they directly allude to the Applicant's field of business, namely financial services and wealth management.
- [41] The Respondents' names are, therefore, confusingly and/or deceptively similar to the Applicant's well-known and distinctive "AVOCADO", "AVO", and AVO-incorporating trade marks, in contravention of Section 11(2)(b) of the Act.
- [42] Furthermore, the Respondents' names falsely imply, and would reasonably mislead the public into incorrectly believing, that the Respondents are part of, affiliated with, or associated with the Applicant, in contravention of Section 11(2)(c)(i) of the Act.
- [43] Any use made by the Respondents of the offending names for goods or services identical or similar to those in respect of which the Applicant has prior registered rights and/or a substantial reputation would constitute trade mark infringement under Section 34(1)(a) and (b) of the Trade Marks Act. Moreover, because the AVO mark qualifies as a well-known trade mark, such unauthorised use would take unfair advantage of, and be detrimental to, the distinctive character and repute of the mark—amounting to dilution under Section 34(1)(c), even in the absence of direct confusion.

APPLICABLE PROVISIONS OF THE COMPANIES ACT

[44] Section 11(2)(a)(iii) of the Companies Act provides that a company name must not be the same as 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, unless the registered owner has consented in writing to the use of the mark as the name of the company.

[45] Section 11(2)(b) of the Act provides that a company name must not be confusingly similar to a name, trade mark, mark, word or expression contemplated in paragraph (a), unless the company is the registered owner of the business name, trade mark, or mark, or is authorised by the registered owner to use it.

[46] Section 11(2)(c)(i) of the Act provides that a company name must not 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, any other person or entity.

[47] Section 160(1) of the Companies 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 the Act.

RELEVANT CASE LAW

[49] In *Ram Transport (South Africa) (Pty) Ltd v Ram Logistics (Pty) Ltd and Another (CT013NOV2018) [2019] COMPTRI 15*, the Tribunal found that a company name incorporating a name that is confusingly similar to the Applicant's registered trade mark offends the provisions of Sections 11(2)(b) and (c) of the Act.

[50] In *KAP (Limited) v KAP Enterprise (Pty) Limited and Another (CT02145ADJ2025) [2025] COMPTRI 38 and 40*, the Tribunal held that where a company name is confusingly similar to the Applicant's registered trade marks, it does not satisfy the requirements of Section 11 of the Act.

[51] In *Nedbank Ltd v Ned Financial Solutions (Pty) Ltd and Another (CT01403/ADJ/2023) [2023] COMPTRI 106*, the Tribunal held that "[t]he word NED is found in both names. The two names are confusingly similar, and this will affect the Applicant's reputation and it will also affect the Applicant financially." This reasoning applies with equal force to the present matter, where the dominant element "AVO" appears in both names.

[53] In *Xhobhani Security Service (Pty) Ltd v Xhobhani Cleaning and Security Services CC (CT00945ADJ2022) [2023] COMPTRI*, the Tribunal held that "[w]hen members of the public see the Respondent's name, they may think that the Respondent is associated with the Applicant."

EVALUATION AND ASSESSMENT

[54] The Applicant filed its application at the Tribunal on 8 September 2025 and served it on the Respondents on 19 September 2025. The Respondents' answering affidavits were due on or about 17 October 2025. The Respondents have failed to file any response.

[55] In light of this failure, the Applicant has properly invoked the default provisions of Regulation 153 of the Companies Regulations, 2011.

[56] The Tribunal is satisfied that the Respondents were adequately and properly served with the application and supporting papers.

[57] The Applicant has a direct and substantial commercial interest in the names of the Respondents, as required by Section 160(1) of the Act. The Respondents' names incorporate the element "AAVO", which is confusingly and/or deceptively similar to the Applicant's registered AVO trade marks, in which the Applicant holds major commercial interests. The Applicant's statutory rights predate the incorporation of all three Respondents.

[58] The Applicant has shown good cause to bring this application, as required by Section 160(2)(b) of the Act. Since becoming aware of the Respondents, the Applicant has

diligently pursued its objection without undue delay by sending a letter of demand and follow-up emails, and thereafter by filing this application.

[59] Section 11 (2) of the Companies Act requires me to determine whether the name of the First Respondent is the same or confusingly similar to that of the Applicants.

[60] In respect of Section 11(2)(a)(iii), the Applicant's registered trade marks include the mark "AVO". The Respondents' names incorporate "AAVO", which differs from the Applicant's trade marks only by one negligible letter. The Respondents are not the registered owners of the mark and have not obtained the Applicant's written consent.

[61] In respect of Section 11(2)(b), the dominant element of each Respondent's name is "AAVO". The additional descriptive words—"Pay", "Private Wealth", and "Fintech"—do not create a distinctive character and, in fact, allude directly to the Applicant's financial services sector. The names are visually and phonetically similar and would likely confuse the public. In the *Metcash Trading Limited v Rainbow Cash and Carry CC (Unreported decision, TPD case no 4339/01 of 8 November 2001)* decision, where RAINBOW STORES and RAINBOW CASH AND CARRY were found to be confusingly similar, and the court held that it is unlikely that two service marks will be found side by side on a shelf but rather “*the notional customer with imperfect recall would probably remember that goods can be purchased at a store with RAINBOW as its name. The additions of the words ‘STORE’ and ‘Cash and Carry’ would merely be indicative of a place where the products are sold*”.

[62] Due to the Respondents' names being visually and phonetically similar they would likely confuse the public as envisaged in Section 11(2)(c)(i) of the Act, and would reasonably mislead a person into believing that the Respondents are part of, or associated with, the Applicant's business. Given the Applicant's strong reputation in its AVO marks, there is a significant risk that the Respondents would gain an unfair advantage from that reputation.

[64] The Respondents have persistently failed to engage with the Applicant or to defend these proceedings, further reinforcing the appropriateness of a default order.

FINDINGS

[65] The Applicant has established a strong prima facie case that the Respondents' company names contravene Section 11(2)(a)(iii), (b), and (c)(i) of the Companies Act 71 of 2008.

[66] The First Respondent's name, Aavo Pay (Pty) Ltd, is confusingly and/or deceptively similar to the Applicant's registered AVO trade marks and does not comply with Section 11(2) of the Act.

[67] The Second Respondent's name, Aavo Private Wealth (Pty) Ltd, is confusingly and/or deceptively similar to the Applicant's registered AVO trade marks and does not comply with Section 11(2) of the Act.

[68] The Third Respondent's name, Aavo Fintech (Pty) Ltd, is confusingly and/or deceptively similar to the Applicant's registered AVO trade marks and does not comply with Section 11(2) of the Act.

[69] The Applicant has shown good cause for making this application and has complied with all applicable procedural requirements.

[70] The Respondents have failed to respond to the Applicant's communications or to defend these proceedings, and a default order is appropriate in the circumstances.

ORDER

[71] The First, Second, and Third Respondents are hereby directed to change their names to names which do not incorporate "AAVO" and which are not confusingly and/or deceptively similar to the Applicant's "AVOCADO", "AVO", and AVO-incorporating trade marks within 3 months of the date of this order.

[72] In the event that the Respondents fail to comply with the order in paragraph 71 within 3 months of the date of this order, the Fourth Respondent (the Commissioner of the Companies and Intellectual Property Commission) is directed, in terms of Section 160(3)(b)(ii) read with Section 142 of the Act, to change the names of the Respondents to their registration numbers, as follows:

1. First Respondent: "K2023/218642/07 (Pty) Ltd"

2. Second Respondent: "K2023/201625/07 (Pty) Ltd"
3. Third Respondent: "2023/218508/07 (Pty) Ltd"

[73] The First, Second, and Third Respondents are ordered to pay the costs of this application, jointly and severally, as the Applicant took all reasonable steps to resolve the matter amicably before resorting to formal proceedings.

[74] Any further and/or alternative relief is refused.

DATED at Centurion on this 18th day of June 2026.

D TERBLANCHE

MEMBER: COMPANIES TRIBUNAL