



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case no: CT/02758/ADJ/2026

In the matter between:

MONDI SOUTH AFRICA (PTY) LTD

Registration Number 1967/013038/07

Applicant

And

MONDI HOLDINGS (PTY) LTD

Registration Number 2024/213405/07

First Respondent

COMMISSIONER COMPANIES AND INTELLECTUAL

PROPERTY COMMISSION

Second

Respondent

Presiding Member of the Companies Tribunal: HLALELENI KATHLEEN DLEPU

Date of Decision: 18 August 2026

DECISION and REASONS

1. INTRODUCTION

- 1.1 The Applicant is **Mondi South Africa (Pty) Limited** a private company incorporated under the laws of South Africa with registration number 1967/013038/07 having its registered office at Merebank Mill, Travencore Drive, Merebank ,Kwa-Zulu Natal ,4052 South Africa. The Applicant is the proprietor of statutory and common law rights in the well-known “**MONDI**” trademark.
- 1.2 The First Respondent is **Mondi Holdings (Pty) Limited** a company duly incorporated in accordance with the company laws of the Republic of South Africa with registration number 2024213405/07 having its registered address at 1 Fungi Street, Kwazakhele, Port Elizabeth, Eastern Cape ,6205
- 1.3 The second respondent is the Companies and Intellectual Property Commission (CIPC) established by Section 185 of the Companies Act with its address at DTI Building, Block F, Meintjies Street, Sunnyside, Pretoria.

2. THE APPLICATION

- 2.1 The Applicant brought this application brought in terms of Section 160 of the Companies Act for an order as follows:
 - 2.1.1 That the First Respondent to change its name and any other trademark to one which does not incorporate and is not confusingly and/or deceptively similar to the Applicant's **MONDI**, or any other trademark/word that is confusingly or deceptively similar thereto

2.1.2 In the event that the First Respondent fails to comply with the order set out in paragraph 2.1.1 above within 60 days ,the Second Respondent be directed ,in terms of Section 160 (3)(b)(ii) read with Section 14(2) of the Companies Act ,to record the First Respondent's registration number followed by (Pty)ltd as the Respondent's interim company name on the Companies Register

2.1.3 The Applicant be granted further and/or alternative relief.

2.2 The Applicant has also applied for a default order in respect of the First Respondent's company name **Mondi Holdings (Pty) Limited**, and the application is based on Section 11 and 160 read with Regulation 153 of the Companies Act 71 of 2008.

3. 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 Tribunal. The Applicant's interest will appear from the facts which were initiated and documented by the Applicant in its affidavit in particular, the Applicants trademark rights in and to the **MONDI** trademark.

3 THE BACKGROUND TO THE APPLICATION FOR JUDGEMENT BY DEFAULT

3.1. On 20 May 2026 Applicant instructed the Attorneys of record Moore Attorneys Incorporated to formally object to the use of company name **Mondi Holdings (Pty) Limited** by the First Respondent.

3.2 On the 21 May 2026 the Second Respondent acknowledged receipt of the Application by email. The Founding Affidavit was served on the First Respondent on the 26 May 2026, by way of Sheriff affixing a copy of the Application to the principal door at no 1 Fungi Street, Kwazakhele, Port Elizabeth, after the premises were found locked. No other service was

possible after performing a diligent search, the application was served within the prescribed 5 (five) business days from receipt of a stamped copy of Form CTR142 in accordance with Regulations 142(2) of the Companies Act a copy of the Sheriff's return of service was attached to the Applicants Affidavit as proof of service.

3.3 The Applicant's Attorneys also served the Founding Affidavit on the Second respondent via email to the email address Corporatelegalservices@cipc.co.za in terms of the Second Respondent's Practice Note 1 of 2021 dated 7 April 2021.

3,3 The 20 business days period within which the First Respondent had to file an answering affidavit had lapsed, the Applicant then applied for an order by default. The Applicant submits that there is good cause for the relief in terms of Section 11(2) of the Companies Act.

3.4. The supporting affidavit deposed to by **Caroline Davie** the **Chief Financial Officer** of the Applicant duly authorised thereto by resolution lodged an application in terms of Section 160 name of the Companies Act requesting the Tribunal to grant an order that the name **Mondi Holdings(Pty)Limited (2024/213405/07** be changed on the basis that it is contrary to Section 11 (2) of the Act .The Application was served by email with annexures ,attached to the Applicants affidavit .

3.4 To date, neither the First Respondent nor anyone acting on its behalf has responded to the application nor oppose it.

.3.5 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 APPLICANTS CASE

4.1 The order is sought due to the follow reasons:

- (a) The Applicant is the proprietor of amongst others, various South African registered trademarks to name a few:
 - (i) Trademark; **MONDI Registration no 1975/04607 Class 16**
 - (ii) Trademark; **MONDI Registration no 1985/06462 Class 19**
 - (iii) Trademark; **MONDI Registration no 1987/04829 Class 1**
 - (iv) Trademark; **MONDI Registration no 1991/07120 Class 16**
 - (v) Trademark; **MONDI Registration no 1991/07126 Class 16**
 - (vi) Trademark **MONDI Registration no 1991/10896 Class 16**

The above list is not exhaustive

4.2 The above trademarks are still valid and enforceable; copies of the trademark register pages were attached to the Applicants affidavit. The Applicants trademarks have been registered for several decades prior to the incorporation of the First Respondent.

4.3 It is important to note that the Applicant is a wholly owned subsidiary of the largest paper and packaging companies, **MONDI PLC**, **MONDI PLC** and its subsidiaries is known as the “**MONDI GROUP**” also operating in South Africa, as **MONDI SOUTH AFRICA (PTY) LIMITED** with registration no 1967/013038/07. The Company was incorporated in South Africa in 1967 several decades before the incorporation of the First Respondent whose incorporation was in 2024.

4.4 The **MONDI** trademark has been used extensively by the Applicant globally and in South Africa.

4.5 The First Respondent's Company name **MONDI HOLDINGS(PTY)LTD** offends the provision of Section 11(2)(a)(iii) in that it is identical to or the same as the Applicant's **MONDI** trademarks which are registered in the CIPC Registrar of trademarks and in terms of the Trade Marks Act 194 of 1993 and the registration

of the trademarks by the Applicant precedes the incorporation of the First Respondent by several decades.

5. In support of this application, the Applicant attached supplementary affidavit in the name of **KYLE DESMOND DALTON** setting out the facts upon which the Applicant relies on, and also attached a duly authorised by resolution.

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 anytime 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 operates a vast variety of paper packaging and other consumables goods under "MONDI". The Applicant 's 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 that 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 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”.

5.8 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 **MONDI HOLDINGS** , or any other

mark which is confusingly and/or deceptively similar to the Applicant's **MONDI** 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 7.1 above within 3 months from the date of this order; 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 or the Tribunal