



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case no.: **CT02811ADJ2026**

In the matter between:

Scania CV Aktiebolag (PTY) LTD

And

Scania Group Southern Africa (PTY) LTD

(Registration number: 2026/126041/07)

First Respondent

THE REGISTRAR OF COMPANIES

Second Respondent

Presiding member: Nomagcisa Cawe

Date of decision: 21 August 2026

DECISION (Reasons and Order)

1. The Applicant has lodged an application in terms of sections 160(1) and 160(2)(b) of the Companies Act 71 of 2008 (“the Act”), read with Regulation 142 of the Companies Regulations 2011, promulgated under GN R351 in GG 34239 of 26 April 2011 (“the Regulations”), seeking an order directing the First Respondent to change its name, on the basis that it contravenes the provisions of section 11(2) of the Act. The Applicant further seeks a default order on the basis that the First Respondent has failed to file an answering affidavit/statement within the prescribed period.

2. The Tribunal has considered the Notices of Motion (Forms CTR 142 and CTR 145), the Applicant's Supporting and the delivery report submitted by Sumayya Khan in support of the default application.

BACKGROUND

3. The Applicant is Scania CV Aktiebolag, a Swedish company duly incorporated and registered in accordance with the company laws of Sweden, and having its address at: Vagnmakarvagen 1, S E -151 87, Sdertatje, Sweden. The Applicant has a subsidiary company, Scania South Africa, whose address is: 14th Avenue and Porgieter Road, Weltevreden Park, Roodepoort, Gauteng.

4. The Applicant's main business is the supply of transport solutions across 100 countries in various classes and trade mark registrations.

5. The First Respondent, Scania Group Southern African (Pty) Ltd, is a South African company incorporated in 2026 under the company laws of South Africa, and having the same registered address as that of the Applicant's South African subsidiary (Scania South Africa).

6. The Second Respondent is the Registrar of Companies, having its registered address at the DTI Campus, Block F, Meinjties Street, Sunnyside, Pretoria. The Second Respondent is cited for notice purposes only and no relief is sought against it unless it opposes this application.

7. Mikael Eurenus, for the Applicant submits, in his founding affidavit, that the First Respondent's name "Scania Group Southern Africa" does not meet the requirements of Section 11 of the Act, in that it is confusingly similar to Applicant's registered trade mark "Scania CV Aktiebolag ". It is even more similar to Applicant's subsidiary, Scania South Africa, and falsely implies an association with Applicant.

STATUTORY FRAMEWORK

8. Section 11(2) of the Companies Act provides, inter alia, that:

(a) A company name must not be the same as or confusingly similar to the name of another company, registered trade mark or well-known mark (section 11(2)(a) and (b)); and

(b) 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 associated with another person or entity (section 11 (2)(c))

9. Section 160(1) permits a person with an interest in a company name to apply to the Companies Tribunal (“the Tribunal”) for a determination as to whether it satisfies section 11(2).

10. Such application 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 (section 160(2).

11. The Tribunal, after considering such application (“and any submissions by the applicant and any other person with an interest in the proposed name that is the subject of the application”) may make a determination whether the name complies with the requirements of Section 11 of the Act.

12. In the event of non-compliance, the Tribunal may, under section 160(3)(b)(ii), order that the name be changed, and that the company file a notice of amendment of its Memorandum of Incorporation within a period and on any conditions that the Tribunal considers just, equitable and expedient in the circumstances.

13. Regulation 153 allows the Tribunal to grant default relief where the respondent has failed to oppose the application despite proper service. In Regulations (1) and (2) it states that:

(1) “If a person served with an initiating document has not filed a response within the prescribed period, the initiating party may apply to have the order, as applied for, issued against that person by the Tribunal.

(2) on such application, “the Tribunal may make an appropriate order- (a) after it has heard any required evidence concerning the motion; and (b) if it is satisfied that the notice or application was adequately served “

DISCUSSION AND ANALYSIS

14. The principles relevant to assessing confusing similarity between company names and trade marks are well settled. The test for “confusing similarity” is analogous to that applied in the law of passing-off. The inquiry centers on whether there is “a reasonable likelihood that ordinary members of the public . . . may be confused or deceived into believing that the goods or merchandise of the former are those of the latter or are connected therewith” (*Adidas AG & Another v Pepkor Retail Ltd* [2013] ZASCA 3 at para 28). This must be determined with regard being had to all relevant circumstances (*Plascon-Evans Paints Ltd v Van Riebeeck Paints (Pty) Ltd* 1984 (3) SA 623 (A) at 640G “Plascon-Evans”).

15. In *Cowbell AG v ICS Holdings* 2001 (3) SA 941 (SCA) at para 10, Harms JA noted that a value judgment is required in determining the likelihood of deceit or confusion arising from similar marks, and quoted the following dictum from *SmithKline Beecham Consumer Brands (Pty) Ltd (formerly known as Beecham South Africa (Pty) Ltd) v Unilever plc* 1995 (2) SA 903 (A) at 912H:

“[t]he ultimate test is . . . whether on a comparison of the two marks it can properly be said that there is a reasonable likelihood of confusion if both are to be used together in a normal and fair manner, in the ordinary course of business.”

16. In the present case, the focus is not on whether the two names are identical, but whether they are *confusingly similar*, and whether the First Respondent’s name would *falsely imply or suggest* an association with the Applicant. It is noteworthy that not only are the names of the parties similar but the First Respondent has registered its business address as that of the Applicant’s South African subsidiary. This creates a false impression that the subsidiary and the First Respondent are the same company.

17. There is a very strong, and certainly reasonable, likelihood of confusion when one inquires as to whether the First Respondent's name is confusingly similar to the Applicant's name (as prohibited by the Act), which would also cause members of the public to reasonably assume some association between the two.

18. In *Bata Ltd v Face Fashions CC* 2001 (1) SA 844 (SCA), the court held that a mark is confusingly similar to another if it has a "marked resemblance or likeness", and that this is particularly so where the dominant portion of the mark is replicated. In the present case the First Respondent's name incorporates the words "GROUP SOUTHERN AFRICA " after the words " SCANIA ", which do not distinguish it from the Applicant. This would certainly lead to confusion among the public as the additional words in First Respondent's name do not distinguish it from Applicant's.

19. The point was crisply made by Eloff J in *Miriam Glick Trading v Clicks Stores (Transvaal) (Pty) Ltd* 1979 (2) SA 290 (T) at 295:

"The trade names must be considered from the visual, phonetic and ideological points of view... not side by side, but as a member of the public would see them, one after the other, with a time lapse in between and having regard to the likelihood of imperfect recollection."

20. The average person encountering the name "SCANIA GROUP SOUTHERN AFRICA " is likely to draw conclusions based on an overall impression and their familiarity with the SCANIA SOUTH AFRICA brand. The overall impression created by the First Respondent's name is one of affiliation.

21. As was stated by Harms JA in *Adidas AG v Pepkor Retail Ltd* [2013] ZASCA 3:

"[I]t is sufficient if the probabilities establish that a substantial number of persons who may be interested or concerned in the relevant class of goods will be deceived or confused." (para 20)

22. In my view, in the present matter, the First Respondent's name may reasonably mislead consumers into believing that it is associated with, endorsed by, or a subsidiary of the Applicant, contrary to section 11(2)(c).

23. The Applicant has established that the First Respondent's name contravenes sections 11(2)(b) and 11(2)(c)(i) of the Companies Act, and has also demonstrated good cause in bringing the present application, as contemplated in section 160(2)(b). In view of this I find in Applicant's favour and its application succeeds.

ORDER

24. Accordingly, the following order is made:

24.1 The First Respondent's registered company name, "SCANIA GROUP SOUTHERN AFRICA (PTY) LTD", does not satisfy the requirements of sections 11(2)(b), and 11(2)(c)(i) of the Companies Act 71 of 2008.

24.2 The First Respondent is directed to:-

(a) choose a new name which does not incorporate, and is not confusingly similar to, the Applicant's "SCANIA/SCANIA SOUTHERN AFRICA " trade mark, nor so similar as to create an overall impression of association;

(b) change its registered business address and its director's, (William Junior Nkomo), to one that does not incorporate all or any element of Applicant's South African business address; and

(c) further, file a notice of amendment to its Memorandum of Incorporation within 60 calendar days of the date of service of this order.

24.3 In the event that the First Respondent fails to comply with paragraph 24.2 (a) above, the Second Respondent is directed, in terms of section 160(3)(b)(ii) read with section 14(2) of the Act, to record the First Respondent's company name on the companies register as its registration number, (2026/126041/07) followed by (Pty) Ltd.

24.4 The Tribunal's Recording Officer (Registrar) is directed to serve this order on the First and Second Respondents.

24.5 No order as to costs is made as the matter was unopposed.

Nomagcisa Cawe:

Member of the Companies Tribunal