IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

CASE NO: CT02530ADJ2025

In the matter between:

ASPEN PHARMACARE HOLDINGS LIMITED	Applicant
and	
ASPEN ENTERPRISES (PTY) LTD (REGISTRATION NO. 2025/506379107)	First Respondent
and	
COMPANIES AND INTELLECTUAL PROPERTY COMMISSION	Second Respondent

Date of Decision: 2nd November 2026

DECISION

INTRODUCTION

1. The Applicant is ASPEN PHARMACARE HOLDINGS LIMITED, a private company in accordancæ with the company laws of the South Africa under registration number 1985/002935/06 with its registered address at Building Eight. Healthcare Park, Wotxilands Drive. Gauteng, 2148.

2. The First Respondent is ASPEN ENTERPRISES (PTY) LTD, a private company under the Company laws of South Africa under number and with its registered address at 3 Constitution Street, Parklands, Town. Western Cape, 7441.

3. The Second Respondent is the Companies and Intellectual Property Commission, an organ of state established in terms of Section 185 of the Companies Act, with its registered office at DTI Campus, Block F, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng ("CIPC"),.

4. The Applicant applies to the Companies Tribunal in terms of Section 11(2) of the Companies Act 71 of 2008 ("the Companies Act"), a name of a company must not be the same as the name of another company, domesticated company, registered external company, close corporation or co-operative and must not be confusingly similar.

APPLICANT'S SUBMISSIONS

5. The Applicant is the proprietor, in South Africa, of the several trademarks in the term Aspen.

6. The Applicant has making continuous and extensive use of the ASPEN name as part of its business name and trade mark in South Africa for decades. The Applicant is one of South Africa's leading manufacturers and supplier of pharmaceutical products. The Applicant is a global and

pharmaceutical to promoting to medicines and improving the health of patients across the world through Our high quality, affordable products. The Applicant markets and manufactures a broad range of post-patent, sterile focus and regional products covering both hospital and consumer channels through key business segments. The manufacturing capabilities span a wide variety of product types including sterile, oral solid dose, liquids, semi-solids, biologicals and APIs. The Applicant's manufacturing sites hold international approvals from some of the most stringent global regulatory agencies. Furthermore, the Applicant's presence and the ASPEN name and trade mark extends to four other continents Asia, Europe, America and Australia wherein they distribute to a total number of 115 countries. The Applicant has more than 9 100 employees in some 51 countries and territories.

7. The First Respondent's name is contrary to the provisions Section 11(2)(b), in that it is either substantially identical or otherwise confusingly similar to a trade mark belonging to the Applicant. Further, the First Respondent's name is contrary to Section 11(2)(c)(i) of the Companies Act in that it is likely to mislead a person to believe, incorrectly, that the company is part of, or associated with, the Applicant.

8. The Applicant has a wide presence on various Social Media platforms.

9. The first respondent has deliberately adopted and persisted in using a name that is confusingly and deceptively similar to that of the applicant.

10. The issue to be determined by this Tribunal is whether the first respondent's name contravenes Section 11(2) of the Companies Act and whether, in those circumstances, the first respondent should be ordered to *inter alia* change its name.

11. The First Respondent's name is contrary to the provisions of Sections 11 (2)(a)(iii) and 11(2)(c)(i) of the Companies Act in that it is confusingly similar to a trademark belonging to the Applicant and will reasonably mislead a person to believe incorrectly that the First Respondent is part of or associated with the Applicant.

12. The Applicant has attempted to resolve this matter without resorting to litigation but has not received the First Respondent's co-operation. Therefore, the Applicant has no option but to proceed with this formal objection.

NAME DISPUTES

APPLICABLE LAW

13. Section 11 of the Companies Act provides the criteria for names of companies.

Subsection (2) is most relevant and states as follows:

"(2) the name of a company must –

(a) not be the same as, or confusingly similar to –

(i) the name of another company, registered external company, close corporation or co-operative unless the company forms part of a group of companies using similar names;

(ii) ... Not relevant

(iii) a registered trademark 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 trademark or a well-known trademark as contemplated in section 35 of the trademarks act; or

(iv) ... Not relevant

2 (b) 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;

EVALUATION AND FINDINGS

14. The purpose of section 11 of the Companies Act is to protect names from being passed off by new companies registering similar names at the expense of the original name holder of the company or trade mark. In the case before me the First Respondents' name is similar to several trade marks held by the Applicant. Both Have the term Aspen in them. This may give members of the public the impression that the Respondent is associated with the Applicant. This may affect the Applicants reputation and financially.

15. The First Respondent is thus ordered to change its name to one that does not include "Aspen" in it.

16. By having the same name as the Applicant members of the public are misled to believe that the Respondent is associated with the Applicant.

ORDER

17. I find in favor of the Applicant

a. The First Respondent is directed to change its name to one which does not incorporate “Aspen” and is not confusingly and or deceptively similar to Applicant's**.**
b. The First Respondent is to file a notice of an amendment of its Memorandum of Incorporation, within 60 days of receipt of this order in order to change its name as per above.
c. In the event that the First Respondent fails to comply with the order as aforementioned, within 3 months, from the date of the order, that Companies and Intellectual Property Commission (CIPC) be directed, in terms of Section 160(3) (b) (ii) read with section 14(2) of the Act, to change the First respondent’s name to is registered company number being 2025/506379107 as the First Respondent’s interim company name on the Companies register.
d. The First Respondent is hereby exempted from the requirement to pay the prescribed fee for filing the notice of amendment contemplated in this paragraph.
e. The Second Respondent is required to register the name applied for by the applicant once the Respondents name is removed from the registrar by the First Respondent or by CIPC within three months of the First Respondent failing to do so.
f. The registrar of the Tribunal is instructed to bring this ruling to the attention of CIPC.

MOHAMED ALLI CHICKTAY
MEMBER OF THE COMPANIES TRIBUNAL