



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case No: CT02472/ADJ2026

In the matter between:

INTER-CONTINENTAL HOTELS

t/a INTERCONTINENTAL HOTELS & RESORTS/

INTERCONTINENTAL HOTELS GROUP (IHG)

APPLICANT

and

REHOBOTH INTERCONTINENTAL (PTY) LTD

(REG. NR: 2025/181813/07)

FIRST RESPONDENT

COMPANIES REGISTER FOR INTELLECTUAL

PROPERTY COMMISSION

SECOND RESPONDENT

Presiding Member of the Companies Tribunal: NOMAGCISA CAWE

Date of Decision: 17 September 2026

DECISION (Reasons and an Order)

1. INTRODUCTION

1.1. Applicant is INTERCONTINENTAL HOTELS CORPORATION, trading as

1.2. INTERCONTINENTAL HOTELS and RESORTS and/or INTERCONTINENTAL HOTELS GROUP (IHG), a company duly incorporated in accordance with the company laws of the United Kingdom , and having its registered headquarters address at 1 Windsor Dials Arthur Road, United Kingdom (“the Applicant/company”). The company operates internationally, including in South Africa.

1.3 The Applicant is registered in classes 42 and 43 in the Republic of South Africa. Its main business is in the hospitality industry and other ancillary services. It was first registered in the United Kingdom in 1717.

1.4 The First Respondent is REHOBOTH INTERCONTINENTAL (Pty) Ltd, a company duly incorporated in accordance with the company laws of South Africa, with registration number 2025/181813/07, and having its registered address at 34 Ridge Road, Umhlanga Rocks, Durban, Kwa-Zulu Natal.

1.5 The Second Respondent is the Companies and Intellectual Property Commission (CIPC), a juristic person established in terms of section 189 of the Companies Act 71 of 2008 (“the Act”). The Second Respondent is cited only in its official capacity as the custodian of the companies register and no relief is sought against it unless it opposes this application.

1.6 This is a name objection application brought in terms of Section 160 of the Act for a determination that First Respondent’s name does not satisfy the requirements of Section 11 of the Act, as it incorporates the Applicant’s registered INTERCONTINENTAL trade mark. The Applicant further seeks relief by default in terms of Regulation 153 of the Companies Regulations of 2011, First Respondent having not entered an appearance to defend.

1.7 I am satisfied that proceeding with a default order is appropriate as the Applicant tried to resolve the matter amicably without any success. The First Respondent has not filed any opposing papers to date, despite being aware of the

proceedings against it.

2. ISSUES

2.1 Applicant requests the Tribunal to make a finding that the First Respondent's name does not satisfy the provisions of section 11(2) of the Act in that it is confusingly similar to Applicant's name.

2.2 Applicant's representative submits that:-

2.2.1 the second word in First Respondent's name wholly incorporates the applicant's "INTERCONTINENTAL" trade mark, which trade mark has acquired substantial goodwill and reputation globally;

2.2.2 the First Respondent is neither connected to nor authorized to use the "INTERCONTINENTAL" trade mark;

2.2.3 deceived customers would assume that the products and/or services of the First Respondent are those of the Applicant;

2.2.4 Applicant has an interest in the name of the First Respondent within the meaning of Section 160(1) of the Act, given its rights in the "INTERCONTINENTAL" name and trade mark;

2.2.5 First Respondent was only incorporated in 2025 as opposed to Applicant's Incorporation in 1717; and

2.2.6 any use of the Trade mark by the First Respondent would amount to passing-off under common law.

3. APPLICABLE LAW

3.1 **Section 11** of the Act provides as follows: "11. **Criteria for names of companies.** —

(1)....

(2) *The name of a company must— (a) not be the same as—*

(i) the name of another company, domesticated company, registered external company, close corporation or co-operative;

...

(b) not be confusingly similar to a name, trade mark, mark, word or expression contemplated in paragraph (a) unless—

(i) in the case of names referred to in paragraph (a) (i), each company bearing any such similar name is a member of the same group of companies;

...

(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;”

3.2 Section 160 of the Act deals with **disputes concerning reservation or registration of company names** and enunciates the jurisdiction of the Companies Tribunal as follows:

(1) A person to whom a notice is delivered in terms of this Act with respect to an application for reservation of a name, registration of a defensive name, application to transfer the reservation of a name or the registration of a defensive name, or the registration of a company’s name, or 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.

(2) An application in terms of subsection (1) may be made— (a) within three months after the date of a notice contemplated in subsection (1), if the applicant received such a notice; or (b) 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, in any other case.

(3) After considering an application made in terms of subsection (1), and any submissions by the applicant and any other person with an interest in the

name or proposed name that is the subject of the application, the Companies Tribunal –:

- (a) must make a determination whether that name, or the reservation, registration or use of the name, or the transfer of the reservation or registration of the name, satisfies the requirements of this Act; and (emphasis added)*
- (b) may make an administrative order directing- (i) the Commission to
 - (aa) reserve a contested name, or register a particular defensive name that had been contested, for the applicant;*
 - (bb) register a name or amended name that had been contested as the name of a company;*
 - (cc) cancel the reservation of a name, or the registration of a defensive name; or*
 - (dd) transfer, or cancel the transfer of, the reservation of a name, or the registration of a defensive name; or**
- (ii) a company to choose a new name, and to file a notice of an amendment to its Memorandum of Incorporation, within a period and on any conditions that the Tribunal considers just, equitable and expedient in the circumstances, including a condition exempting the company from the requirement to pay the prescribed fee for filing the notice of amendment contemplated in this paragraph.”*

3.3 Companies Regulation 153 of 2011 provides for default orders:

- (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.*

4. EVALUATION

4.1 In line with what was stated in **Ewing t/a The Buttercup Dairy Company v Buttercup Margarine Corporation Ltd 1917 (34) RPC at 232 and 238**, it can be concluded that confusion and/or deception may arise from a side-by-side use of the

Applicant's and the First Respondent's names. This could lead to injury to the Applicant's business, especially since it has no control whatsoever over the quality of services rendered or goods supplied by the Respondent. The doctrine of imperfect recollection has been explained by our courts¹ thus: "there is a probability that a substantial number of people will be at least confused, if not deceived, given the fact that an individual does not have the two marks before him, side by side and that memory is often imperfect". In **Cowbell AG vs ICS Holdings 2001 (3) SA 941 (SCA)**, the court said: "the decision involves a value judgment and that the 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 marks are to be used together in a normal and fair manner, in the ordinary course of business."

4.2 It can therefore be also be concluded that Respondent's name will reasonably mislead the reasonable person to believe, incorrectly, that Respondent has a direct association with the Applicant's business. The fact is that the two businesses clearly have similar or overlapping activities in respect of their corporate branding, and this will, under section 11(2)(b), include the likelihood/possibility that the reasonable person will be misled.

4.3 Finally, in the case of *Plascon-Evans v Van Riebeeck Paints (Pty) Ltd 1984 (3) SA 623 (A)* at 640G-641E, it was stated that:

"In an infringement action the onus is on the plaintiff to show the probability or likelihood of deception or confusion. It is not incumbent upon the Plaintiff to show that every person interested or concerned (usually as a customer) in the class of goods for which his trade mark has been registered would probably be deceived or confused. It is sufficient if the probabilities establish that a substantial number of such persons will be deceived or confused. The concept of deception or confusion is not limited to inducing in the minds of interested the erroneous belief or impression that the goods in relation to which the defendant's mark is used are the goods of the proprietor of the registered mark;

¹ *Standard Bank of South Africa Limited v United Bank Limited & Another 1991 (4) SA 780 (T)* 8011 to 802B

i.e the plaintiff, or that there is a material connection between the defendant's goods and the proprietor of the registered trade mark; 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 determination of these questions involves essentially a comparison between the mark used by the defendant and the registered mark and, having regard to the similarities and differences in the two marks, an assessment of the impact which the defendant's mark would make upon the average type of customer who would be likely to purchase the kind of goods to which the marks are applied. This notional customer must be conceived of as a person of average intelligence, having proper eyesight and buying with ordinary caution. 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 market place and against the background of relevant surroundings. (my emphasis)

- 4.4 It is striking that First Respondent's name wholly incorporates the "INTERCONTINENTAL" trade mark. The addition of REHOBOTH, at the beginning of First Respondent's name does not break the mental link created by the complete reproduction of the mark.
- 4.5 It is highly likely that members of the public, encountering First Respondent's name for the first time would, incorrectly, assume that Applicant and First Respondent are part of the same entity. I agree with Applicant's representative's submission that this could be to the detriment of the Applicant company as it has no control over the quality of products and/or services offered by the First Respondent.
- 4.6 In view of the aforesaid, I hold that First Respondent's name is confusingly similar to that of the Applicant and offends against the provisions of section 11(2)(a), (b) and (c) of the Act.

5. FINDINGS

5.1 I find that the balance of convenience favours the Applicant.

5.2 Applicant has shown that First Respondent has transgressed Section 11(2): its name is the same as and falsely implies, or could reasonably mislead a person to believe incorrectly, that the First Respondent is part of, or associated with the Applicant. Hence Applicant is entitled to the order, as claimed, in terms of Section 160 of the Act.

5.3 The Applicant is granted the order set out below.

6. ORDER

6.1 An administrative order is made in terms of Section 160(3)(b)(ii) that First Respondent change its name to one which does not incorporate the words "INTERCONTINENTAL".

6.2 The Respondent is hereby ordered to change its name within 60 (calendar) days of the date of receipt of this order and to file a notice of amendment of its Memorandum of Incorporation.

6.3 Should the Respondent not comply with the order of the Tribunal within the 60 day (calendar days) period, the Registrar of CIPC is directed to change the Respondent's name to its registration number (2025/181813/07), in terms of Sections 160(3) and 14(2) of the Act, as an interim measure.

6.4 This order must be served on the First Respondent and the CIPC by the Tribunal's Recording Officer (the Registrar).

6.5 There is no order as to costs as the matter was unopposed.

Nomagcisa Cawe: Member of the Companies Tribunal

