IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case No: CT02711ADJ2026

In the matter between:

INVESTEC BANK LIMITED (1969/004763/06)	**APPLICANT**
and	
TST INVESTEC (PTY) LTD (2025/386542/07)	**FIRST RESPONDENT**
COMMISSIONER OF THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION	**SECOND RESPONDENT**

Presiding Member of the Companies Tribunal: DR MINAH TONG-MONGALO
Date of Decision: 21 August 2026

DECISION (Reasons and an Order)

A. INTRODUCTION

1. This is an application by Investec Bank Limited (the Applicant) in terms of section 160 of the Companies Act 71 of 2008 (the Act) for a determination that the registered name of the First Respondent, TST Investec (Pty) Ltd, does not satisfy the requirements of section 11 of the Act.
2. The Applicant relies on its earlier registered INVESTEC trade marks and contends that the First Respondent's name is confusingly similar to those marks and is likely to mislead members of the public into believing that the First Respondent is part of, or associated with, the Applicant.
3. The First Respondent has not delivered an answer. The Applicant accordingly seeks a default order in terms of regulation 153 of the Companies Regulations, 2011 (the Regulations).

B. THE PARTIES

4. The Applicant is Investec Bank Limited, a company incorporated and registered in accordance with the laws of the Republic of South Africa under registration number 1969/004763/06, with its registered place of business at 100 Grayston Drive, Sandown, Sandton, 2196.
5. The First Respondent is TST Investec (Pty) Ltd, a private company incorporated under registration number 2025/386542/07, with its registered address at Stand No. 732, Ramotshinyadi Village, Tzaneen, Limpopo, 0850.
6. The Second Respondent is the Commissioner of the Companies and Intellectual Property Commission, appointed in terms of section 189 of the Act. The Second Respondent is cited in an official capacity because the Commission maintains the companies register and may be required to give effect to the administrative order made below.

C. PROCEDURAL HISTORY AND DEFAULT

7. The Applicant filed its Form CTR 142 application for relief on 24 April 2026. The application is supported by the founding affidavit of Yeoshaan Ramdutt, who is responsible for managing the Applicant's trade mark portfolio.
8. The date-stamped Form CTR 142 and the supporting papers were served by email on the First Respondent and the Second Respondent on 27 April 2026. The address used for the First Respondent was the email address recorded for its sole director in the incorporation records and the same address from which that director had previously communicated with the Applicant's attorneys.
9. Regulation 143(1) afforded the First Respondent 20 business days after service within which to deliver an answer. That period expired without an answer. On 5 June 2026, the Tribunal confirmed to the Applicant's attorneys that no answering affidavit had been received. The Applicant thereafter applied for a default order, supported by the affidavit of Gaelyn Clare Scott sworn on 12 June 2026.
10. The prior correspondence demonstrates that the email address was active and controlled by the First Respondent's sole director. Having regard to the sworn evidence of delivery, the previous use of that address by the director, and the absence of any contrary evidence, I am satisfied that the initiating application was adequately served for purposes of regulation 153(2)(b). The default application is therefore procedurally competent.

D. THE APPLICANT'S RIGHTS AND FACTUAL BACKGROUND

11. The Applicant is the proprietor of numerous South African trade mark registrations incorporating or comprising INVESTEC. They include, among others, INVESTEC under registration numbers 1987/04228 in class 36, 1987/05010 in class 35, 2000/11640 in class 42 and 2015/31113 in class 36, as well as registrations for INVESTEC BANK and related composite marks. The registrations predate the incorporation of the First Respondent by many years.
12. The evidence establishes substantial goodwill and reputation in INVESTEC. The Applicant commenced trading under that mark in South Africa in 1974, has an extensive international presence, and has for many years incurred substantial expenditure promoting services under the mark. The evidence also records substantial South African revenue and consistent recognition of INVESTEC among South Africa's most valuable brands.
13. The Applicant became aware of the First Respondent during December 2025. Its attorneys sent a letter of demand on 18 December 2025, setting out the Applicant's rights and calling on the First Respondent to change its name to one that did not incorporate INVESTEC or a confusingly similar mark.
14. On 18 January 2026, the First Respondent's sole director replied and requested a telephone discussion. During a call on 20 January 2026, the director stated that the First Respondent was engaged in agro-processing or food production and undertook that it would change its name to one not incorporating INVESTEC or anything similar, and cease all use of the impugned name, within three weeks, by 10 February 2026.
15. Despite that undertaking and further follow-up, the First Respondent did not change its name. The Applicant authorised the present proceedings on 16 March 2026 and filed the application on 24 April 2026. The evidence therefore shows sustained efforts to resolve the matter without adjudication and no material delay in approaching the Tribunal.

E. THE APPLICABLE LAW

16. Section 160(1) of the Act permits any person with an interest in the name of a company to apply to the Tribunal, in the prescribed manner and form, for a determination whether the name satisfies the requirements of the Act. Under section 160(2)(b), such an application may be made on good cause shown at any time after registration of the impugned name.
17. Section 11(2)(a)(iii) provides that a company name must not be the same as a registered trade mark belonging to another person, or a well-known trade mark contemplated in section 35 of the Trade Marks Act 194 of 1993, unless the registered owner has consented in writing to use of the mark as the company name.

18. Section 11(2)(b)(iii) provides, in material part, that a company name must not be confusingly similar to a trade mark contemplated in section 11(2)(a)(iii), unless the company is the registered owner of the mark or is authorised by the registered owner to use it.
19. Section 11(2)(c)(i) further 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.
20. The word 'similar' denotes a marked resemblance or likeness, and the impugned name should immediately bring the protected name or mark to mind: *Bata Ltd v Face Fashions CC.*[1] The question of confusing similarity is a value judgment based on the overall impression produced by the names and the reasonable likelihood that ordinary members of the public may believe that the entities are connected.[2]
21. In terms of section 160(3)(a), the Tribunal must determine whether the impugned name satisfies the Act. If it does not, section 160(3)(b)(ii) permits an administrative order directing the company to choose a new name and file a notice of amendment to its Memorandum of Incorporation within a period and on conditions that the Tribunal considers just, equitable and expedient.
22. Regulation 153(1) allows the initiating party to apply for the order sought when a person served with an initiating document has not responded within the prescribed period. Under regulation 153(2), the Tribunal may make an appropriate order after hearing any evidence it requires and if satisfied that the initiating application was adequately served.
23. Regulation 156(1) provides that, upon making an order, the Tribunal may make an order for costs. If costs are awarded, regulation 156(2) regulates their taxation according to the applicable High Court tariff.

F. ANALYSIS

24. The Applicant's registered trade marks and substantial commercial interest in INVESTEC establish a direct and substantial interest in the First Respondent's name. Good cause is also established: the Applicant acted within a reasonable period after learning of the registration, sought voluntary compliance, allowed the First Respondent repeated opportunities to change its name, and approached the Tribunal only when those efforts failed.

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[1] 2001 (1) SA 844 (SCA).
[2] *Capital Estate and General Agencies (Pty) Ltd and Others v Holiday Inns Inc. and Others* 1977 (2) SA 916 (A) at 929; *Yuppichef Holdings (Pty) Ltd v Yuppie Gadgets Holdings (Pty) Ltd* (1088/2015) [2016] ZASCA 118; 2016 BIP 269 (SCA) (15 September 2016) para 26.

25. Section 11(2)(a)(iii) is not the appropriate basis for determination. The First Respondent's full name is not the same as the stand-alone INVESTEC mark because it includes the letters TST and the corporate suffix. The dispositive provisions are sections 11(2)(b)(iii) and 11(2)(c)(i).
26. INVESTEC is an invented and inherently distinctive word. It is reproduced, without alteration, as the dominant and memorable element of TST Investec (Pty) Ltd. The statutory suffix merely describes the First Respondent's corporate form and has no distinguishing force.
27. The prefix TST is a short initialism and does not alter the visual, phonetic or conceptual identity of INVESTEC within the First Respondent's name. Considered as a whole and as a matter of first impression, TST Investec immediately brings the Applicant and its mark to mind.
28. The fact that the First Respondent says that it operates in agro-processing or food production does not eliminate the likelihood of confusion or misleading association. The protection in section 11 concerns the company name. Members of the public could reasonably understand TST to identify a division, project, client platform, financed venture or affiliate within the Applicant's broader corporate or investment activities.
29. The conclusion is reinforced by Investec Bank Limited v Travis Invest Tech (Pty) Ltd and Another, CT02342ADJ2025 (7 January 2026), paras 24-27, where the Tribunal found that the less exact expression 'Invest Tech' was sufficiently similar to INVESTEC to create a misleading association. In the present matter, the Applicant's mark is incorporated exactly and in full.
30. There is no evidence that the Applicant consented to or authorised use of INVESTEC. The First Respondent's own undertaking to change the name is inconsistent with any claim of authorisation and has not been followed by compliance. I am accordingly satisfied, on a balance of probabilities, that the name TST Investec (Pty) Ltd is confusingly similar to the Applicant's INVESTEC trade marks and is such as would reasonably mislead a person to believe incorrectly that the First Respondent is part of, or associated with, the Applicant.

G. DEFAULT RELIEF AND COSTS

31. The First Respondent has elected not to place any evidence before the Tribunal. The Applicant has established its entitlement to a default order. The Form CTR 142 seeks substitution of the interim name if the First Respondent fails to change its name within three months, while paragraph 8.2 of the founding affidavit refers to one month. Because

default relief should not be more onerous than the clearest period stated in the initiating form, and because section 160(3)(b)(ii) permits the Tribunal to determine a just and equitable period, three months from service of this order is appropriate.

32. The Applicant expressly seeks costs. This matter is distinguishable from an ordinary unopposed name objection in which no pre-litigation engagement occurred. The First Respondent engaged with the demand, gave an unequivocal undertaking to change its name and then failed both to perform and to oppose the proceedings. That conduct made the application necessary. Consistently with regulation 156(1) and the approach in Efekto Holdings (Pty) Ltd and Others v Efekto Chemical Supply Agency International (Pty) Ltd, CT013Jun2016 (31 August 2016), para 14, an order for the Applicant's agreed or taxed party-and-party costs is just.

H. ORDER

33. In the result, the following order is made:
34. The First Respondent's name, TST Investec (Pty) Ltd, does not satisfy the requirements of sections 11(2)(b)(iii) and 11(2)(c)(i) of the Companies Act 71 of 2008.
35. The First Respondent is directed to choose a new name that does not incorporate INVESTEC and is not confusingly similar to, or misleadingly suggestive of an association with, the Applicant's INVESTEC trade marks, and to file the required notice of amendment to its Memorandum of Incorporation with the Second Respondent within three months of service of this decision and order on the First Respondent.
36. If the First Respondent fails to comply with paragraph 33.2, the Second Respondent is directed to record the First Respondent's registration number followed by '(Pty) Ltd', namely '2025/386542/07 (Pty) Ltd', as the First Respondent's interim company name on the companies register.
37. The Recording Officer of the Companies Tribunal is directed to serve this decision and order on the parties.
38. The First Respondent is directed to pay the Applicant's costs of the application on the party-and-party scale, to be taxed in accordance with the applicable High Court tariff if not agreed.

Dr MINAH TONG-MONGALO
Member of the Companies Tribunal