



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case no.: **CT02826ADJ2026**

In the matter between:

AECI MINING LIMITED

Applicant

and

AEL LOGISTICS (PTY) LIMITED

First Respondent

**COMPANIES AND INTELLECTUAL PROPERTY
COMMISSION**

Second Respondent

Presiding member: Richard Bradstreet

Date of decision: 1 September 2026

DECISION (Reasons and Order)

1. This application concerns a company name objection brought in terms of section 160 of the Companies Act 71 of 2008 ("**the Act**"), in which the Applicant seeks a determination that the First Respondent's name does not satisfy the requirements of section 11 of the Act. The Applicant further seeks a default order in terms of regulation 153 of the Companies Regulations 2011, the First

Respondent having failed to file an answering affidavit in response to the application.

2. The Applicant, AECI Mining Limited, is a company incorporated under the laws of the Republic, with its registered office at 1st Floor, AECI Place, 24 The Woodlands, Woodmead, Gauteng. It is a wholly-owned subsidiary of AECI Limited, whose explosives operations in South Africa date back as far as 1896, and which, from 1999, conducted its explosives business under the name African Explosives Limited (“AEL”). The Applicant is the proprietor of the registered AEL trade marks relied upon in this application, which were assigned to it by AEL Mining Services Limited with effect from 30 May 2022.
3. The First Respondent is AEL Logistics (Pty) Limited, a company incorporated on 25 July 2022 under registration number 2022/622331/07, with its registered office at 6 Shiloue Street, Leslie, Mpumalanga. Its principal business is not disclosed on the register. The Applicant’s investigations indicate that the First Respondent operates, or intends to operate, in the transportation and logistics field, and that one of its directors is engaged in the haulage of coal and mining commodities.
4. The Second Respondent is the Companies and Intellectual Property Commission (“**the Commission**”), the entity responsible for the registration of companies and the maintenance of the companies register. No relief is sought against the Commission save the consequential relief in the event of the First Respondent’s non-compliance, and no costs are sought against it.
5. The basis of the objection is that the First Respondent’s name is confusingly similar to the Applicant’s registered and well-known AEL trade mark, and that the name falsely implies or would reasonably mislead a person into believing

that the First Respondent is associated with the Applicant. The objection is founded on sections 11(2)(b) and 11(2)(c)(i) of the Act.

DEFAULT RELIEF

6. The Main Application was lodged with the Tribunal on 30 June 2026, and the Tribunal allocated case number CT02826ADJ2026 to the matter on that date. On 30 June 2026 the Applicant's attorneys served a copy of the application on the First Respondent by e-mail, addressed to the electronic addresses recorded for its directors – the same addresses through which the Applicant's attorneys had previously corresponded with the First Respondent. On 2 July 2026 the Sheriff of Highveld Ridge served a copy of the application at the First Respondent's business address by delivering it to an employee of the First Respondent, and proof of service was filed with the Tribunal on 8 July 2026.
7. In terms of regulation 143, the First Respondent had until 30 July 2026 to serve and file an answer. It did not do so, and the Applicant filed its application for a default order on 27 August 2026. I am satisfied that there has been adequate service, and thus compliance with regulation 153(2)(b). It also appears that the Applicant passes the "good cause" test in that a reasonable explanation is given as to why the application should be heard by the Tribunal, and there has been no undue delay in bringing the application. The matter may therefore be dealt with on the papers on a default basis.

APPLICABLE LEGAL FRAMEWORK

8. Section 160(1) of the Act provides that a person with an interest in the name of a company may apply to the Tribunal for a determination whether the name satisfies the requirements of the Act. The Applicant, as the proprietor of the registered AEL trade marks and of a substantial reputation in them, clearly has

such an interest. In terms of section 160(2)(b), such an 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”, and, for the reasons given above, good cause has been shown.

9. Section 11(2) of the Act provides, so far as is relevant, that the name of a company must not be confusingly similar to a registered trade mark, or to a mark in respect of which an application has been filed in the Republic for registration, or to a well-known trade mark as contemplated in section 35 of the Trade Marks Act 194 of 1993 (section 11(2)(b) read with section 11(2)(a)(iii)); and 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 (section 11(2)(c)(i)).

Confusing similarity

10. “Similar”, for the purposes of section 11(2)(b), means “having a marked resemblance or likeness (*Bata Ltd v Face Fashions CC* 2001 (1) SA 844 (SCA) para 14). The comparison of a company name with a trade mark involves a value judgment, and the marks are to be considered as they would be encountered in normal and fair use in the ordinary course of business (*Cowbell AG v ICS Holdings Ltd* 2001 (3) SA 941 (SCA) para 10; *SmithKline Beecham Consumer Brands (Pty) Ltd v Unilever plc* 1995 (2) SA 903 (A) at 912H).
11. The ultimate test is whether there is a reasonable likelihood that ordinary members of the public, or a substantial section thereof, may be confused or deceived into believing that the goods, services or business of the one are those of, or are connected with, the other (*Adidas AG v Pepkor Retail Ltd* (187/12) [2013] ZASCA 3; 2013 BIP 203 (SCA) para 28). The comparison is made

through the eyes of the notional ordinary customer of the goods or services in question, who is possessed of imperfect recollection and who is not engaged in a careful side-by-side analysis, and account must be taken of the class of persons likely to be the customers concerned (*Reckitt & Colman SA (Pty) Ltd v SC Johnson & Son SA (Pty) Ltd* 1993 (2) SA 307 (A) at 315F–G).

12. The absence of a common field of activity is a relevant factor, but it is not decisive: in *Capital Estate and General Agencies (Pty) Ltd v Holiday Inns Inc* 1977 (2) SA 916 (A) at 929A, Rabie JA explained, with reference to English authority that “as a matter of common sense, one of the important considerations is whether there is any kind of association . . . between the field of activities of the plaintiff and the field of activities of the defendant”, but that this is “simply a question which is involved in the ultimate decision whether there is likely to be confusion”. The crucial question in every case remains whether there is a reasonable likelihood of confusion, and the onus of establishing the objection rests on the Applicant (*Bata supra* at para 8).

ANALYSIS

13. The Applicant relies upon its registration, in South Africa, of the trade mark AEL, and of a corresponding AEL logo, in classes 9, 13 and 42, each filed on 22 February 2010 and each registered. Those registrations cover, in broad terms, detonator and blasting systems, ammunition and explosives, and technical and engineering services relating to blasting, explosives and mining. The Applicant relies, in addition, on a substantial reputation in the AEL mark and on its status as a well-known mark within the meaning of section 35 of the Trade Marks Act. The relevant comparison is that between the Applicant’s registered word mark AEL and the First Respondent’s name, AEL Logistics (Pty) Limited.

14. The dominant and memorable element of the First Respondent's name is the letter combination "AEL". It stands at the front of the name and performs the function of identifying the undertaking. The word "Logistics" is descriptive of a field of commercial activity and adds little distinctiveness; the corporate suffix "(Pty) Limited" does no more than denote the form of the entity. Stripped of the descriptive and the formal, what remains is "AEL", which is the Applicant's mark, reproduced letter for letter.
15. Mindful of the fact that AEL is a short mark, being a three-letter combination, and that a short or acronymic mark may – in certain cases – be a weak one, in the sense that a small alteration or addition may be enough to shift the dominant impression and so to distinguish the later name. That consideration does not assist the First Respondent here, for two reasons. First, nothing in the First Respondent's name alters the mark: the acronym is not varied by so much as a letter, but taken over whole, with only a descriptive word appended. Second, and in any event, AEL is not a weak mark. It is a registered mark of long standing and, on the uncontroverted evidence before me, one that enjoys a substantial reputation in the mining and explosives sector. Whatever latitude a genuinely commonplace three-letter combination might attract, an established and well-known mark taken over in its entirety attracts none.
16. Although the classes in which the AEL mark is registered – viz. explosives, ammunition and blasting-related goods and services – do not necessarily extend to transport or logistics, this is not enough to answer the objection. The enquiry under section 11(2)(b) is whether the First Respondent's name is confusingly similar to the Applicant's mark, not whether the two trade in identical goods, and the absence of a precise overlap in the register is, as the authorities make clear, a factor to be weighed rather than a bar to relief. In the present

case, it carries little weight because the fields are not remote from one another: the Applicant's business in explosives and mining solutions is one in which the carriage and logistics of goods is an everyday incident, and the First Respondent's intended activity – the haulage of coal and mining commodities – lies squarely in the same commercial sphere. A member of the public encountering "AEL Logistics" in that sphere would have no reason to think that it was not the logistics arm of, or otherwise connected with, the well-known AEL undertaking. The protection accorded to a well-known mark is, moreover, not confined to the goods and services of its registration.

17. There is a further feature of the matter which makes the risk of confusion difficult to dispute. The First Respondent advertised for drivers on social media alongside an image of a truck bearing the Applicant's AEL logo. This demonstrates that the First Respondent was aware of the AEL brand and was nevertheless prepared to present its business to the public in association with the Applicant's mark. In those circumstances, any suggestion that the adoption of "AEL" was merely coincidental is difficult to sustain. The more probable inference is that the name was adopted in order to evoke an association with the Applicant and to benefit from the reputation attaching to its mark.
18. Taking these considerations together, and applying the value judgment required by *Cowbell* supra, I am satisfied that the First Respondent's name is confusingly similar to the Applicant's registered AEL trade mark, contrary to section 11(2)(b) of the Act. The risk of confusion is, in my view, real and substantial.
19. It follows, therefore, that section 11(2)(c)(i) is also contravened, and on the facts of this matter that conclusion is reached independently as well as consequentially. A member of the public confronted with the name "AEL Logistics", in a field adjacent to that in which the Applicant's well-known mark

has long been used, is reasonably likely to draw the inference that the First Respondent is a part of, an extension of, or otherwise associated with, the Applicant. That inference would be incorrect.

20. The Applicant sought its costs only in the event that the application was opposed. It was not opposed, and therefore no question of costs arises.

ORDER

21. In the result, I make the following order:

- (a) The application for a default order in terms of regulation 153 is granted.
- (b) It is determined that the name of the First Respondent, AEL Logistics (Pty) Limited, does not satisfy the requirements of section 11(2)(b) and section 11(2)(c)(i) of the Act.
- (c) The First Respondent is directed, in terms of section 160(3)(b)(ii) of the Act, to –
 - (i) choose a new name that does not consist of, incorporate, or is not confusingly similar to, the trade mark AEL, or any other mark confusingly or deceptively similar to it, and that does not imply an association with the Applicant; and
 - (ii) file a notice of amendment to its Memorandum of Incorporation giving effect to that change, within 3 (three) months of the date of service of this order.
- (d) In the event that the First Respondent fails to comply with paragraph (c) within the period stated, the Second Respondent is directed, in terms of section 160(3)(b)(ii) read with section 14(2) of the Act, to change the First

Respondent's name on the companies register to its registration number, 2022/622331/07, followed by the expression "(Pty) Ltd", as the First Respondent's interim name.

- (e) This order must be served on the Respondents by the Recording Officer (Registrar) of the Tribunal.

Richard Bradstreet

Member of the Companies Tribunal

1 September 2026