

IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

CASE NO: CT01087ADJ2022.

In the matter between:

LIGHTSTONE GROUP (Pty) Ltd Applicant
(Registration Number. 2006/0419/07)

and

LIGHTSTONE CONSULTING (Pty) Ltd Respondent

(Registration Number. 2021/840253/07)

Date of Decision: 1st September 2022

DECISION

INTRODUCTION

1. The Applicant is **LIGHTSTONE GROUP (Pty) Ltd** It is a duly incorporated South African company, registered under number 2006/0419/07.

2. The respondent is **LIGHTSTONE CONSULTING (Pty) Ltd** It is a duly incorporated South African company, registered under number 2021/840253/07.

3. 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

4. On 5th July 2022 the applicant filed its company name objection with the Companies Tribunal and the applicant served the company name objection on the respondent. Despite being informed of the application the first respondent does not oppose it.

5. The Applicant submits that the Respondents name is confusingly similar to its name.

6. The Applicant is part of the Lightstone group of companies. The holding company is associated with a number of other companies that have the name Lightstone in it. They partake in a wide range of businesses including information, valuations, consultancy services to lenders and financial institutions, Dealerships, Municipalities etc. The Applicant has been in

business since. The Respondent was only registered in 2021. The two names are confusingly similar and this will affect the Applicants reputation as members of the public would think that the Respondent is linked with the Applicant,

7. The Applicant argues that the Respondents name is confusingly similar to the Applicants and would deceive the public.

APPLICABLE LAW

8. 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

(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

9. Section 11 (2) of the Companies Act requires me to determine whether the name of the respondent is confusingly similar to that of the Applicants. Both Companies are using the name **LIGHTSTONE** in their names. When members of the public see the Respondents name they will think of the Applicant. The Applicant has been in business since 2006 and has a number of companies within its group with the name **LIGHTSTONE** .This may give members of the public the impression that it is owned by the Applicant with the potential to cause reputational damage.

10. 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. I thus find in favour of the Applicant

ORDER

a. I find in favour of the Applicant
b. The Respondent is directed to change its name to one which does not incorporate and is not confusingly and or deceptively

similar to Applicant's**.** It should not include the word **LIGHTSTONE** in any form.

c. The 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.
d. In the event that the 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 respondent's name to is registered company number being 2021/840253/07 as the Respondent's interim company name on the Companies register.
e. The Respondent is hereby exempted from the requirement to pay the prescribed fee for filing the notice of amendment contemplated in this paragraph.
f. This Determination must be served on the Respondent and the Registrar of Companies and Intellectual Property Commission.

MOHAMED ALLI CHICKTAY
MEMBER OF THE COMPANIES TRIBUNAL