



IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA

(“The Tribunal”)

CASE NO: CT007AUG2015

Re: In an Application in terms of Section 160 of the Companies Act 71 of 2008 (“the Act”) for a determination that the company name Accenture Global Service (Pty) Ltd does not satisfy the requirements of Section 11(2) of the Act.

In the matter between:

ACCENTURE GLOBAL SERVICES (PTY) LTD

THE APPLICANT

AND

ACCENTURE TRAINING SOLUTIONS (PTY) LTD

(2013/185894/07)

THE RESPONDENT

Coram K. Tootla

Decision delivered on 2 February 2016

DECISION

INTRODUCTION:

- [1] The Applicant, an Irish company registered under the law of Ireland and having its registered address at 3 Grand Canal Plaza, Upper Grande Street, Dublin, brings an application in terms of Sections 11 (2) (a) (i) ;11 (2)(b) and 160 of the Companies Act 2008 (“the Act”) read with Regulation (Reg.) 153 for an order that the Respondent change its name so that it does not contain the trademark ACCENTURE or any mark confusingly similar thereto.
- [2] The Respondent is a company incorporated in terms of the Companies Act, and having its registered address at Number 6, 12th Avenue, Rivonia Road, Sandton, Gauteng 2028.

PROCEDURE:

- [3] The Applicant attempted to serve the application on the Respondent's registered address (as per CIPC records) on 13 August 2015, via the Sheriff of the Court but was unsuccessful as the number 6 could not be located.
- [4] The Applicant sent a letter of demand via registered proof to the Respondent on 26 August 2014 at the same address.
- [5] It is noted that the Applicant delayed the matter for more than a year after it received knowledge of the Respondent's company name, before serving an application on the Respondent.
- [6] The Applicant is of the view that since it left a message with the receptionist of the Respondent and also because a letter of demand was sent as above, it has taken all reasonable steps to contact the Respondent in an attempt to settle the matter. However, the Applicant did not enquire or confirm with the Respondent's receptionist what the actual address of the Respondent is. No evidence of the telephone numbers of the Respondent have been provided.

- [7] The fact that the Respondent's receptionist answered the Applicant's call reflects that the Respondent was in business at the time. The delay of lodging an objection application more than a year after the alleged telephone call indicates that the Applicant ought to have employed a more diligent search for the Respondent's registered office.
- [8] Be that as it may, it is clear that the sheriff's return is a non-service as the Sheriff could not locate the number 6, on 12th avenue in Rivonia which is the registered office of the Applicant. No attempt was made either to serve the CTR form and accompanying documents on the directors at their residential addresses as per the CIPC records.
- [9] No explanation is forthcoming whether any other methods were used to serve the Application. It is clear that the methods employed were done more than a year before the lodgment of the Application, and not close to the time of the lodgment. Neither were any attempts made to ascertain the whereabouts of the Applicant by virtue of any other method, for example employing a tracing agent.

EVALUATION:

- [10] Due to the fact that the application has not been served by the Sheriff on the registered address or in terms of Table CR3, Annexure A of the Act and Regulation 7, the Tribunal is unable to examine the merits of the matter. Regulation 7 in general refers to the different methods of delivery acceptable.
- [11] It can be noted that once the Applicant became aware of the fact that the registered address of the Respondent could not be located after the letter of demand; and later after the Sheriff attempted to serve the Application, it did not deem it fit to ascertain the proper address of the Respondent nor did it attempt to serve the application on the directors residential address.

[12] In any event, the Applicant is obliged to show good cause in terms Section 160(2) (b) of the Act which it has not done. It is clear that the delay of more than a year in bringing an application to the Tribunal after it gained knowledge of the Respondent's name is sufficiently unreasonable.

[13] It is clear that there has been no service on the Respondent and the letter of demand as well telephone calls do not amount to service, which was in any event done more than a year before the application was attempted to be served.

ORDER:

[13] The Application is dismissed with no order as to costs.

k.y. tootla (electronically signed)

KHATIJA TOOTLA

Member of the Companies Tribunal

2 February 2016