

IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA, PRETORIA

CASE NO: CT020APRIL2015

In the matter between:

Continental Teves AG & CO OHG

Applicant

And

ATE Trading and Projects (Pty) Ltd

Respondent

Coram: Kganyago M.F

Decision handed down on the 30th July 2015

DECISION

- [1] The applicant in this matter has brought an application in terms of section 160(1) and (2) read together with section 11(2) of the Companies Act 71 of 2008 ("the Act"). The applicant is seeking an order in terms of section 160 (3) of the Act that the respondent be ordered to change its name to one not incorporating their ATE trade mark registration or a confusingly similar version thereof. The applicant is also seeking a costs order against the respondent.
- [2] The respondent was served with the application at its registered address by the sheriff on the 29th April 2015 on Mr Fana Sokhulu.
- [3] The respondent did not serve or file any opposing papers. The 20 days within which the respondent is required to serve and file opposing papers if any has lapsed. The applicant is now applying for a default order in terms of Regulation 153 (1) of the Companies Regulations, 2011 ("the Regulations").
- [4] After perusal of the documents filed, I am satisfied that members of the public are likely to be confused or deceived into believing that a connection exists between

the applicant and respondent. Furthermore there is a likelihood that the members of the public are likely to be confused or deceived into believing that the respondent forms part of the Applicant as a result of its use and registration of a name that is confusingly similar to the Applicant's ATE trade mark registration.

- [5] Under the circumstances, in my view the applicant has made a good case for a default order to be granted.

Order

In the result I make the following order:-

- [6] The applicant's default order is granted.
- [7] The respondent is ordered to choose a name which does not incorporate the applicant's ATE trade mark, and file an amendment with CIPC with 20 business days from the date of this order.
- [8] The respondent is exempted from paying the prescribed fee relating to change of name at CIPC.
- [9] Should the respondent fail to comply with the order, the Register of Companies is ordered to change the respondent's company name.


M.F KGANYAGO

MEMBER OF THE COMPANIES TRIBUNAL