



**IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA**

**Case No: CT008MAY2017**

**In the matter between:**

**BIDCORP CORPORATE SERVICES**

**APPLICANT**

**And**

**COMPANIES AND INTELLECTUAL  
PROPERTY COMMISSION**

**RESPONDENT**

**Presiding Member of the Tribunal: Mohamed Alli Chicktay**

**Date of Decision: 1<sup>st</sup> August 2017**

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**DECISION**

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**Keyword:** Section 160 of the companies Act, similar names, name registration

**Presiding Member of the Tribunal: Mohamed Alli Chicktay**

**Date of Decision: 1<sup>st</sup> August 2017**

## **INTRODUCTION**

[1] This is an application in terms of section 160 of the Companies Act 71 of 2008 (“the Act”) read together with regulation 13 of the Companies Regulations of 2011 (the Regulations). The Applicant is seeking an order that the Tribunal set aside the decision of the Respondent’s refusal to reserve its proposed name.

## **BACKGROUND**

[2] The Applicant Bidcorp Corporate Services, a division of Crown Food Group (Pty) Ltd wishes to register the name “C C W Catering Supplies”, as a company registered under the Company Laws of South Africa.

[3] The Respondent is the Companies and Intellectual Property Commission of South Africa (CIPC) appointed in terms of section 189 of the Act. The Respondent is cited in its official capacity as the entity responsible for the function of the Commission of Companies, including but not limited to, the reservation of company names and the registration of companies in terms of the Act. The Respondent refused to register the name requested by the applicant since it stated was confusingly similar to names “CC W Catering” and “CCW Catering Hardware” that were already registered.

## **ISSUE IN DISPUTE**

### **Applicant’s Arguments**

[4] The Applicant sought to reserve the company name “C C W Catering Supplies”

[5] The Applicant argued that the name “CC W Catering” has been in voluntary liquidation since March 1999 and thus there would be no

confusion between “CC W Catering” and “C C W Catering Supplies”

- [6] The Applicant argued further that the name “CCW Catering Hardware” was deregistered for annual return non-compliance on 14<sup>th</sup> November 2009 and thus there would also be no confusion between “CCW Catering Hardware” and “C C W Catering Supplies”.

### **Respondents Arguments**

- [1] The Respondent refused to register the name “C C W Catering Supplies” in 2017 since it argued that it was confusingly similar to “CC W Catering” and “CCW Catering Hardware”.
- [2] The Respondent advised the Applicant on 30<sup>th</sup> January 2017 on the prescribed COR 9.5 form that the name reservation was refused in the following terms:

“Name to be Final Liquidated”

### **APPLICABLE LEGISLATION**

- [3] The regulation of disputes concerning the reservation or registration of company names and the jurisdiction of the Tribunal is set out in Section 160 of the Act. Section 160 (1) states that a person to whom a notice is delivered in terms of section 12(3) or section 14 (3) or any other person with an interest in the name of a company, may apply to the Companies Tribunal in the prescribed manner and form for a determination whether the name satisfies the requirements of section 11. Section 11(2) of the Act states specifically that the name of the company must not be confusingly similar to a name, trademark, mark, word or expression contemplated in paragraph (a) (to another company)

## **EVALUATION**

[4] According to the Concise Oxford Dictionary, “similar” is defined as of the same in kind of appearance, character, or quantity, without being identical. The names are similar in character and appearance. The words “C C W Catering Supplies” is found in all three names. Section 11(2) of the Act specifically prohibits the registration of similar names.

[5] While “CCW Catering Hardware” may be deregistered and not create confusion “CC W Catering” still exist and the fact that it is being subject to liquidation could create greater confusion.

## **FINDINGS**

[6] I find that the names “C C W Catering Supplies” and “CC W Catering” are similar and the Respondent has thus correctly denied the applicant the right to register the name “C C W Catering Supplies”.

## **ORDER**

[7] In light of the above findings I order that the application be dismissed

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**MOHAMED ALLI CHICKTAY**  
**COMPANIES TRIBUNAL: MEMBER**