



**IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA**

**("THE TRIBUNAL")**

**CASE NUMBER: CT011JUL2015**

In the matter between:

**UNIVERSITY OF JOHANNESBURG**

**APPLICANT**

and

**UJ-AM STUDENT ACCOMADATION (PTY) LTD**

**RESPONDENT**

**Coram: PJ Veldhuizen**

**Order delivered 11 November 2015**

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**ORDER & REASONS**

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**[1]    The Application**

1.1.    This is an application purportedly brought in terms of section 153 of the Companies Act No. 71 of 2008 ("the Act") where the Applicant

applies to the Tribunal for a Default Order on a Notice of Motion for determination that:

- 1.1.1. the Respondent's name is confusingly similar to the Applicant's registered trademarks; and
  - 1.1.2. the name of the Respondent is undesirable and calculated to cause damage.
- 1.2. Presumably, the Applicant intended to bring the application in terms of section 160 read with regulation 153.
- 1.3. The Applicant's attention to detail in the preparation of its application is lamentable. This could perhaps be excused if the reference to the sections and regulations relied upon in the Notice of Motion were the only instance of inaccuracies.
- 1.4. Regrettably, the Supporting Affidavit deposed to by the attorney acting for the Applicant is replete with instances of confusion, inaccuracies and indications that the deponent must have used a precedent format and attempted an amateurish "cut and paste" exercise. To name but a few instances:
  - 1.4.1. while the business of the Applicant and its registered trademarks contemplate education, training and related goods and services, reference is made to the Applicant's "***continued use of the automobile service products offering*** by the Applicant since at least 2005" and then a further allegation that the use of the Applicant's trademark permits the Respondent "to trade in the *same field of business being mining and mining related services as the Applicant.*" – my emphasis.

1.4.2. reference is made to the Applicant's application for the "UJ" trademark in 1998 whereas the annexure "TW6" referred to in the Supporting Affidavit records it as being applied for in 2004.

1.5. Furthermore, the deponent appears confused as to whether he is applying to the Companies Tribunal or the Registrar of Companies when requesting the Default Order, as references to these are used interchangeably.

1.6. In addition to the above, the Applicant fails to deal with the requirement to show good cause as required by section 160(2)(b) of the Act or make any reference to the requirements of section 11 of the Act.

**[2] Decision**

For the reasons above, the Tribunal makes the following Order:

2.1 the application is dismissed; and

2.2 the file is referred to the disciplinary committee of the Law Society of the Northern Provinces for a decision on whether the conduct of the deponent to the Supporting Affidavit amounts to unprofessional conduct.



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**PJ VELDHUIZEN**  
**MEMBER OF THE COMPANIES TRIBUNAL**  
**CAPE TOWN**