



**COMPANIES TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

CASE NO: CT001JAN2017

In the matter between:

ROANA MOUTON

Applicant

and

COMPANIES AND INTELLECTUAL PROPERTY COMMISSION

Respondent

Decision handed down on 19 MAY 2017

DECISION

INTRODUCTION

- [1] This is an application in terms of section 160 (3) (b) (i) and Regulation 13 (b) of the Companies Act No. 71 of 2008 (“the Act”).
- [2] The Applicant applies to the Companies Tribunal for an order setting aside the Respondent’s Notice Refusing Name Reservation in terms of Regulation 9 (3) (c) of the Act.

BACKGROUND

- [3] The Applicant is Roana Mouton, an adult female person (identity number: 730703 0159 083).
- [4] The Respondent is the Companies and Intellectual Property Commission, a juristic person established in terms of section 185 (1) of the Act.
- [5] The Applicant applied for name reservation of the name “PROZPIR” with the Respondent on 27 October 2016.
- [6] On 03 November 2016 the name “PROZPIR” was refused by the Respondent on the basis that the proposed name “PROZPIR” is confusingly similar to the following existing names:
- [6.1] “PROSPIRE CONSULTING”

[6.2] "MCLO PROSPIRING CENTRE"

[6.3] "PROZ TRADING SOLUTION"

[7] Further, the Respondent informed the Applicant that no name has been approved for use by the Applicant for the following reason (s):

"Unfortunately none of your name/s can be approved due to the fact that it is confusingly similar to name/s already registered within the meaning of our name register in particular in terms of Sec 11 (2) (b) of the Companies Act."

[8] The applicant seeks the following relief:

"Grant name reservation for K2016468548-PRO2PIR"

EVALUATION

[9] The Applicant in support of its application provided the following reasons:

1) PRO2PIR is unique and not found in any dictionary

2) PRO2PIR was made up by the founder, Roana Mouton

3) PRO2PIR must be a short, 2-syllable word to be easily remembered across the world. The product is an e-commerce App on mobile phones for prosperity for buyers and sellers using the platform

4) *PRO2PIR is registered by the founder, Roana Mouton as web: pro2pin.com /
Facebook: Pro2pir Instagram: pro2pir twitter: pro2pirous*

[10] Further, in addition, the Applicant provided the following reasons:

Conflicts

1. *Prospire Consulting is not spelled as Pro2pir, the 2 and i are different. This new company will not be consulting firm.*
2. *MCLO Prospiring Centre is not spelled as Pro2pir. The 2 and i are different. This new company will not be a centre.*
3. *Proz Trading Solution is not spelled as Pro2pir. This new company is not a Trading Solution.*
4. *Not the same as “go forth and Prosper”.*
5. *Not the same as “Hustle to Prosper trading.”*

FINDING

[11] The Applicant’s proposed name “PROZPIR” as reflected on form CoR9.5 (Notice Refusing Name Reservation) is not similar to the name “PRO2PIR”.

[Note my underlining and emphasis]

[12] The Applicant's proposed name "PROZPIR" does not incorporate the number **2**.

[13] It is therefore my considered view that a different proposed name was compared to the Respondent's database, by the Respondent.

[14] However, against the aforementioned finding, I am of the recommendation that the Applicant should consider re-applying on the basis that the proposed name applied for did not incorporate the number **2**. This should not be understood to be legal advice on the matter or even to purport to bind other members of this Tribunal who may be seized with any future application(s) by the Applicant.

ORDER

In the result the following order is made:

a) The Application is dismissed.

MMOLEDI MALOKANE

(MEMBER OF COMPANIES TRIBUNAL OF SOUTH AFRICA)

Date: 19 MAY 2017