

**COMPANIES TRIBUNAL
REPUBLIC OF SOUTH AFRICA**

Case: CT006NOV2015

K 2015062277 (SOUTH AFRICA)

Applicant

Name reservation for BUZZ CENTRE

and

COMPANIES AND INTELLECTUAL PROPERTIES COMMISSION

Presiding Member of the Companies Tribunal: Lucia Glass

DECISION (Reasons and Order)

Introduction

1) This is an application to the Companies Tribunal for an order compelling the Companies and Intellectual Property Commission (CIPC) to set aside the CIPC's notice, COR 9.5 (refusing the name reservation of "**BUZZ CENTRE**"), dated 6th of November 2015, reference number 930529166, and to reserve the name "**BUZZ CENTRE**". The Applicant does not mention under which Section of the Companies Act 71 of 2008 ("the Act") this application is made.

2) The Deponent to the Applicant's founding affidavit is Christina Nompomelelo Sebueng.

Background / Evidence

3) The name "**BUZZ CENTRE**" was applied for and was refused by CIPCI on a form COR9.5 (attached to the papers) due to the fact that the following comparative names existed:

BUS CENTRE

BUS CENTRAL

BUS CENTRE INVESTMENTS

All the names begin with BUS.

4) In respect of the name " **BUZZ CENTRE**", the Applicant requests the Tribunal to order the Respondent to grant it the use of the name "**BUS CENTRE**". The word "**BUS**" and "**BUZZ**" are to be weighed up and a decision is to be made whether these two words are confusingly similar.

5) APPLICABLE LAW

Section 160 of the Act: Disputes concerning reservation or registration of company names.—

"(1) A person to whom a notice is delivered in terms of this Act with respect to an application for reservation of a name, registration of a defensive name, application to transfer the reservation of a name or the registration of a defensive name, or the registration of a company's name, 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, or the reservation, registration or use of the name, or the transfer of any such reservation or registration of a name, satisfies the requirements of this Act.

(2) An application in terms of subsection (1) may be made—

(a) within three months after the date of a notice contemplated in subsection (1), if the applicant received such a notice; or

(b) on good cause shown at any time after the date of the reservation or registration of the name that is the subject of the application, in any other case.

(3) After considering an application made in terms of subsection (1), and any submissions by the applicant and any other person with an interest in the name or proposed name that is the subject of the application, the Companies Tribunal—

(a) must make a determination whether that name, or the reservation, registration or use of the name, or the transfer of the reservation or registration of the name, satisfies the requirements of this Act;

(b) **may make an administrative order directing—**

(i) the Commission to—

(aa) reserve a contested name, or register a particular defensive name that had been contested, for the applicant; (emphasis added)

(bb) register a name or amended name that had been contested as the name of a company; or

(cc) cancel the reservation of a name, or the registration of a defensive name; or

(dd) transfer, or cancel the transfer of, the reservation of a name, or the registration of a defensive name; or

(ii) a company to choose a new name, and to file a notice of an amendment to its Memorandum of Incorporation, within a period and on any conditions that the Tribunal considers just, equitable and expedient in the circumstances, including a condition exempting the company from the requirement to pay the prescribed fee for filing the notice of amendment contemplated in this paragraph.

Evaluation

6) The Companies Tribunal is tasked to determine, whether the applicant has shown good cause and whether the Tribunal has the powers to make an order directing the CIPCI to reserve the name "CIB".

7) It is my view that the names "**BUZZ CENTRE**" and "**BUS CENTRE**" are not similar as these words have different meanings. The Oxford Concise English Dictionary defines "**BUS**" as a large passenger vehicle, and "**BUZZ**" as the hum of a bee. When the ordinary person reads either of these words, different meanings will be registered in the mind of the person.

8) It is my view that good cause is shown that there are no conflicts and therefore no confusingly similar names to the name "**BUZZ CENTRE**".

9) In terms of Section 160 (3) (b), the Companies Tribunal may make an administrative order directing the CIPCI to reserve the contested name.

Findings

10) After considering the facts and the law, it is my view that the CIPCI is to allow the reservation of the name "**BUZZ CENTRE**".

ORDER

I proceed to make an administrative order in terms of Section 160 directing the CIPCI to set aside the CIPCI's notice, COR 9.5 (refusing the name reservation of "**BUZZ CENTRE**"), dated 6th of November 2015, reference number 930529166, and to reserve the name "**BUZZ CENTRE**".

LUCIA GLASS

(MEMBER OF COMPANIES TRIBUNAL OF SOUTH AFRICA)

Dated this 10th December 2015