



IN THE COMPANIES TRIBUNAL OF SOUTH AFRICA

Case No: CT019May2019

In the matter between:

MEPHO BHENGU

APPLICANT

and

**COMPANIES AND INTELLECTUAL PROPERTY
COMMISSION (CIPC)**

RESPONDENT

Presiding Member of the Companies Tribunal: ISHARA BODASING

Date of Decision: 30 November 2019

DECISION (Reasons and an Order)

1. INTRODUCTION

This is an Application in terms of Section 160 of the Companies Act 71 of 2008 (“the Act”) read with Regulations 142 and 153¹ for a determination order:

¹ Companies Regulations (GN R351 in GG 34239 of 26 April 2011).

- a) that the decision of the Companies and Intellectual Property Commission (“CIPC”) not to approve the proposed name “Western Capital” be set aside, and
- b) that the CIPC be directed to reserve the said proposed name.

2. THE PARTIES

- 2.1. Applicant is **MEPHO BHENGU**, a businessman of 42 Ridge Road, New Germany, 3610.
- 2.2. Respondent is the Companies and Intellectual Property Commission (“CIPC”) a juristic person established in terms of section 185 (1) of the Act. The CIPC’s objectives include, *inter alia*, “the efficient and effective registration of companies in terms of the Act.”

3. BACKGROUND

- 3.1 Applicant applied for reservation of the name “Western Capital” with the Respondent on 15 June 2018.
- 3.2 On 18 June 2018 the name “Western Capital” was refused by the Respondent on the basis that the proposed name is confusingly similar to the following existing names:
 - a. Alfa and Omega Human Capital Western Cape
 - b. Western Capital Asset Management
 - c. Western Capital Consolidated Group Holdings
- 3.3 The Applicant applied to the Tribunal for an order setting aside the aforementioned Notice and further for an order directing the Respondent to reserve the name as applied for.
- 3.4 Applicant’s matter was referred to this Tribunal and directives were issued on 25 October 2019, to assist Applicant in rectifying his defective papers.

3.5 Applicant was granted ten days from date of receipt of that order to supplement his papers. On Applicant's request, a further and final extension was granted until 25 November 2019. No supplementary papers having been submitted, this Tribunal now hands down its decision as follows below.

4 EVALUATION

4.1 The Application lacks critical information, which is required in terms of the Act read with the Companies Regulations and our laws of evidence.

4.2 Accordingly, this dearth of information is fatal to this application.

5 ORDER

5.1 The Application is refused.

ISHARA BODASING