


IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN

" X "  
02/02/2024  


Before the Honourable ACTING JUDGE PRESIDENT GOLIATH

CAPE TOWN: 02 February 2024

Case no.: 10278/2023

In the matter between:

**TERTIARY EDUCATION AND RESEARCH NETWORK  
OF SOUTH AFRICA (RF) NPC**

Applicant

and

**TENET TECHNOLOGY (PTY) LTD**

First Respondent

**NATIONAL STUDENT FINANCIAL AID SCHEME**

Second Respondent

**COMMISSIONER OF THE COMPANIES AND  
INTELLECTUAL PROPERTIES COMMISSION**

Third Respondent

**.ZA REGISTRY CONSORTIUM (PTY) LTD**

Fourth Respondent


**UKHESHE TECHNOLOGIES (PTY) LTD**


Fifth Respondent

**DORALITE (PTY) LTD**

Sixth Respondent

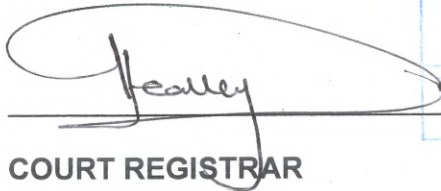
**DRAFT ORDER**

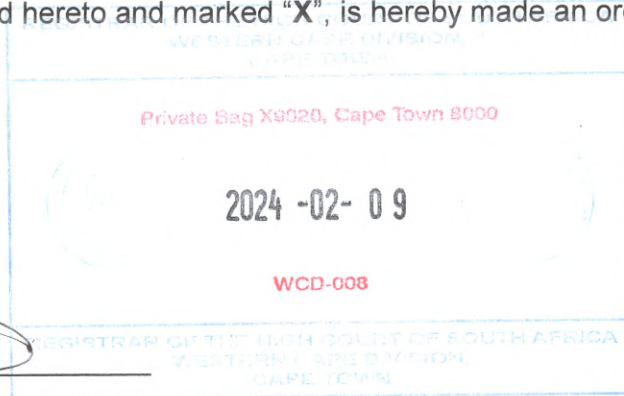
  
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Private Bag 99020, Cape Town 8000

  
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Having considered the note filed by the Applicant, the email from Mr Nike Pillay of Nike Pillay Inc. (who represents the First, Fifth and Sixth Respondents) and the settlement agreement concluded, by agreement between the parties, the settlement agreement attached hereto and marked "X", is hereby made an order of Court.

**BY ORDER OF THE COURT**

  
\_\_\_\_\_  
**COURT REGISTRAR**



**Von Seidels**  
Applicant's Attorneys  
Central Park on Park Lane  
Century City  
Cape Town  
Ref: TL2605ZA00/HP  
Box No.: 8

Handwritten marks: "X", "X", "02/02/2024" with a signature.

IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION CAPE TOWN

Case no.: 10278/2023

In the matter between:

TERTIARY EDUCATION AND RESEARCH NETWORK OF SOUTH AFRICA (RF) NPC Applicant

and

TENET TECHNOLOGY (PTY) LTD First Respondent

NATIONAL STUDENT FINANCIAL AID SCHEME Second Respondent

COMMISSIONER OF THE COMPANIES AND INTELLECTUAL PROPERTY COMMISSION Third Respondent

.ZA REGISTRY CONSORTIUM (PTY) LTD Fourth Respondent

UKHESHE TECHNOLOGIES (PTY) LTD Fifth Respondent

CORALITE (PTY) LTD Sixth Respondent

SETTLEMENT AGREEMENT

1. DEFINITIONS

In this agreement, unless indicated to the contrary, the following words and phrases shall have the meanings assigned to them:

Certified a true copy of the original which has no noticeable evidence of alterations by an unauthorised person.  
Gesertifiseer 'n ware afskrif van die oorspronklike waarop geen algemene veranderinge deur 'n ongemagtigde persoon aangebring is nie.  
[Signature]  
LANDDROS/MAGISTRATE  
REGISTRAR/OFFICER

OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG X9020  
CAPE TOWN 8000  
2024 -02- 09  
REGISTRAR 2  
WESTERN CAPE HIGH COURT

Handwritten initials/signature: RP [Signature]

- 1.1 **Dispute** shall mean the dispute between the parties as described in clause 2.1;
- 1.2 **Applicant**, shall mean Tertiary Education and Research Network of South Africa (RF) NPC, a South African non-profit company incorporated under registration number 2000/020780/08, with its principal place of business at Wynberg Mews, Corner of Ebenezer and Brodie Roads, Wynberg, Western Cape;
- 1.3 **First Respondent**, shall mean Tenet Technologies (Pty) Ltd, a South African company incorporated under registration no. 2013/158012/07, with its principal place of business at Block H, 35 Intersite Avenue, Umgeni Business Park, Durban, KwaZulu-Natal;
- 1.4 **Second Respondent**, shall mean National Student Financial Aid Scheme ("NSFAS"), a legal entity established in terms of the National Student Financial Aid Scheme Act 56 of 1999, with its principal place of business at The Halyard, 4 Christiaan Barnard Street, Cape Town, Western Cape;
- 1.5 **Third Respondent**, shall mean the Commissioner of the Companies and Intellectual Property Commission ("CIPC"), appointed in terms of

RP [Handwritten signature]

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*[Handwritten signature]*  
LENDROOS/MAGISTRATE  
REGISTRAR, CRIFTEER

OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG X907  
CAPE TOWN 8000  
2024 -02- 09  
REGISTRAR 2  
WESTERN CAPE HIGH COURT



Section 189 of the Companies Act 71 of 2008, with its principal place of business at DTIC Campus, Block F Entfufukweni, 77 Meintjies Street, Sunnyside, Pretoria, Gauteng;

- 1.6. **Fourth Respondent**, shall mean .ZA Registry Consortium (Pty) Ltd ("ZACR"), a South African company incorporated under registration no. 2022/706278/07, with its principal place of business at CO.ZA House, Gazelle Crescent, Corporate Park, Midrand, Gauteng;
- 1.7. **Fifth Respondent**, shall mean Ukheshe Technologies (Pty) Ltd, a South African company incorporated under registration no. 2017/471522/07, and its principal place of business at 1st Floor, Golfers Corner, Design Quarter, Fourways, Gauteng;
- 1.8. **Sixth Respondent**, shall mean Coralite (Pty) Ltd, a South African company incorporated under registration no. 2010/007439/07, with its principal place of business at 1<sup>st</sup> Floor, Liberty Life Building, 21 Aurora Drive, Umhlanga, KwaZulu-Natal;
- 1.9. **The Respondents**, shall mean the First, Second, Third, Fourth, Fifth and Sixth Respondents;
- 1.10. **The Primary Respondents**, shall mean the First, Fifth and Sixth Respondents;

RP x  
[Handwritten signature]

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Gesertifiseer 'n ware afskrif van die oorspronklike waarna geen sigbare veranderings deur 'n ongemagtigde persoon aangebring is nie.  
[Handwritten signature]  
MORRIS MASHATE  
REGISTRAR GENERAL

OFFICE OF THE CHIEF JUSTICE  
PRIVATE B/C X9020  
CAPE TOWN  
2024 -02- 09  
REGISTRAR 2  
WESTERN CAPE HIGH COURT

- 1.11. **The Parties**, shall mean the Applicant and the Primary Respondents;
- 1.12. **The Court**, shall mean the Western Cape Division of the High Court of South Africa;
- 1.13. **Tribunal** shall mean the Tribunal of the Registrar of Trade Marks;
- 1.14. **Interim Order** shall mean the interim order by agreement between the Parties handed down by the Court on 7 August 2023, a copy of which is annexed hereto as Annexure "A";
- 1.15. **TENET trade marks** shall mean trade mark registration nos. 2010/18214-17 TENET in classes 37, 38, 41 and 42 in the name of the Applicant; and
- 1.16. **TENET TECHNOLOGY application** shall mean trade mark application no. 2022/25158 TENET TECHNOLOGY in class 36 in the name of the First Respondent.

2. **PREAMBLE**

- 2.1. The Applicant and the Respondents have been involved in a legal dispute before the Court under case no. 10278/2023;
- 2.2. Only the First and Sixth Respondents elected to oppose the

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*Healey*

LANDROS/MAGISTRATE  
REGISTRAR OFFICER

OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG X9020  
CAPE TOWN 8000

2024 -02- 09

REGISTRAR 2

WESTERN CAPE HIGH COURT

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*RPB*

proceedings brought by the Applicant.

- 2.3 The Parties agreed to interim relief on 28 July 2023 the terms of which are set out in the Interim Order;
- 2.4 The Parties would like to conclude the matter with finality and have agreed, without any admittance of guilt, to amicably settle the abovementioned Dispute on the terms as recorded herein;
- 2.5 The Parties have further agreed that this settlement agreement shall be made an order of Court.

NOW THEREFORE IT IS AGREED AS FOLLOWS:

**3. TERMS OF SETTLEMENT**

3.1. The Primary Respondents will cease any and all use of any mark that incorporates the word **TENET** in relation to financial services, information technology, data processing and digitized business and payment solutions in the context of post-schooling education and training within a reasonable phase-out period of 12 (twelve) from the date of the Interim Order, i.e. by 7 August 2024; twelve months

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3.2. Notwithstanding clause 3.1 above, the Primary Respondents are allowed to use the mark **TENETECH** (expressed as one word), including

RP [Signature]

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[Signature]  
LANDROOS MACHTHALE  
REGISTRAR, GRIFFIER

OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG X9020  
CAPE TOWN 8000  
2024-02-09  
REGISTRAR 2  
WESTERN CAPE HIGH COURT



the domain names tenetech.co.za and nsfas.tenetechtechnology.co.za/SA, provided that the aforementioned domain names do not resolve to websites or applications that contain consumer-facing usage of TENET and / or TENET TECHNOLOGY. For the avoidance of doubt, references to the aforementioned domain names include any sub-domains thereof;

3.3. During the phase-out period mentioned in clause 3.1 above, the First Respondent will not order or print any new bank cards bearing any TENET-incorporating trade marks, with the exception of TENETECH (expressed as one word);

3.4 After the expiration of the phase-out period mentioned in clause 3.1 above, the Sixth Respondent undertakes to cancel the domain name tenetnsfas.co.za which currently stands in its name;

3.5 The Parties mutually agree to take all reasonable steps to avoid creating confusion between their respective businesses and to address existing confusion already caused between their respective marks; and

3.6. The Applicant undertakes to withdraw its threat of opposition to the TENET TECHNOLOGY application before the Tribunal within 5 [FIVE] days from the effective date hereof.

4. EFFECTIVE DATE

RF  
Dyt  
A

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Geverifieer 'n ware afskrif van die oorspronklike waard geen sigbare veranderings deur 'n ongemagtigde persoon aangebring is nie.  
*[Signature]*  
LAWDROS/MAGISTRATE  
REGISTRAR, GRIFFIER

DS  
OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG 2020  
CAPE TOWN 8000  
2024 -02- 09  
REGISTRAR 2  
WESTERN CAPE HIGH COURT



4.1 This Agreement shall, irrespective of when it is made an order of Court, come into effect upon signature of the First Respondent.

5. COSTS

5.1. Each party shall bear their own legal costs herein.

6. ENTIRE AGREEMENT

6.1. This agreement constitutes the entire agreement. No variation or amendment of any of the provisions of this agreement shall be of any force and effect unless reduced to writing and signed by the parties hereto, or varied by any competent court.

6.2. No relaxation or indulgence that any party may grant to another shall constitute a waiver of the rights of that party, and shall not preclude that party from exercising any rights which may have arisen in the past or which might arise in the future.

6.3. The Parties agree that this agreement shall be of full force and effect and shall be binding on their respective successors in title, heirs, executors, administrators and assignees and associated and/or subsidiary companies.

7. FULL AND FINAL SETTLEMENT

Certified a true copy of the original which has no noticeable evidence of alterations by an unauthorised person.  
 Gesertifiseer 'n ware afskrif van die oorspronklike wat nou geen sigbare veranderinge getui in ongemaagtigde persoon aangebring is nie.

*[Signature]*

LARIBONGE/MAGISTRATE  
 REGISTRAR GRIFFIER

OFFICE OF THE CHIEF JUSTICE  
 PRIVATE BAG X9020  
 CAPE TOWN 8000

2024-02-09

REGISTRAR 2

WESTERN CAPE HIGH COURT

*[Handwritten initials: RF, MSS]*

7.3. As of its Effective Date, the Dispute shall be regarded as fully and finally settled and the Parties shall have no further claims of any nature whatsoever against each other arising in connection with the Dispute, except as otherwise specifically provided for in the terms of this Agreement.

**8. COUNTERPARTS**

8.1. This Agreement shall be signed in any number of counterparts, all of which taken together shall constitute one and the same instrument. A Party enters into this Agreement by signing any such counterpart. A signature may be provided with an electronic signature on a PDF file delivered via email, which PDF file shall be deemed to be an original executed document.

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Gesertifiseer 'n ware afskrif van die oorspronklike wat geen sigbare veranderings aan 'n ongemagtigde persoon aangebring is nie.

*[Signature]*

LANDROOS MAGISTRATE  
REGISTRAR GRIFTER

OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG X9020  
CAPE TOWN  
2024 -02- 09  
REGISTRAR 2  
WESTERN CAPE HIGH COURT

*RF*  
*[Signature]*

*DS*  
*MSS*

SIGNED by the Parties and witnessed on the following dates and at the following places respectively:

SIGNED AT Cape Town THIS 31<sup>st</sup> DAY OF DECEMBER 2023



On behalf of TERTIARY EDUCATION AND RESEARCH NETWORK OF SOUTH AFRICA (RF) NPC

WITNESS

By the authorised undersigned officer,  
who warrants that he is so authorised.  
Name of signatory: Duncan Greaves  
Capacity: Chief Executive Officer

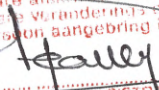
SIGNED AT Durban THIS 5<sup>th</sup> DAY OF DECEMBER 2023



TENET TECHNOLOGIES (PTY) LTD

WITNESS

By the authorised undersigned officer,  
who warrants that he/she is so authorised:  
Name of signatory: RYAN PASSMORE  
Capacity: Managing ~~Director~~ Executive

Certified a true copy of the original which has no noticeable evidence of alterations by an unauthorised person.  
Geskiedenis is waarheidsgetrouwe kopie van die oorspronklike waartoe geen sigbare veranderings aan 'n ongemagtigde persoon aangebring is nie.  
  
HEALEY  
MAGISTRATE  
REGISTERED OFFICER

OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG X9020  
CAPE TOWN 8000  
2024 -02- 09  
REGISTRAR 2  
WESTERN CAPE HIGH COURT

DS  
MSS

SIGNED AT wokingham THIS 15 DAY OF DECEMBER 2023

DocuSigned by:  
Mike Smits  
6CD7BB1CE8B0456...

DocuSigned by:  
Chante Jardim  
3CEBA5DF4FBE41C...

**UKHESHE TECHNOLOGIES (PTY) LTD**

**WITNESS**

By the authorised undersigned officer,  
who warrants that he/she is so authorised:  
Name of signatory: Mike Smits  
Capacity: Managing Director

SIGNED AT DURBAN THIS 15TH DAY OF DECEMBER 2023



**CORALITE (PTY) LTD**

**WITNESS**

By the authorised undersigned officer,  
who warrants that he/she is so authorised:  
Name of signatory: KYLE ADEN NAIDOO  
Capacity: Managing Director DIRECTOR.

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Gesertifiseer 'n ware afskrif van die oorspronklike waartoe geen sigbare veranderinge deur 'n ongemagtigde persoon aangebring is nie.  
Holley  
REGISTRAR GENERAL

OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG X9020  
CAPE TOWN 8000  
2024 -02- 09  
REGISTRAR  
WESTERN CAPE HIGH COURT  
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IN THE HIGH COURT OF SOUTH AFRICA  
WESTERN CAPE DIVISION, CAPE TOWN

*[Handwritten signature]*  
A  
2023-07-28  
Case no.: 10278/2023

On this 28<sup>th</sup> day of July 2023

BEFORE HIS LORDSHIP MR JUSTICE DOLAMO

In the application between:

TERTIARY EDUCATION AND RESEARCH NETWORK  
OF SOUTH AFRICA (RF) NPC

Applicant

and

TENET TECHNOLOGY (PTY) LTD

2023-08-07

First Respondent

NATIONAL STUDENT FINANCIAL AID SCHEME

Second Respondent

COMMISSIONER OF THE COMPANIES AND  
INTELLECTUAL PROPERTY COMMISSION

Third Respondent

ZA REGISTRY CONSORTIUM (PTY) LTD

Fourth Respondent

UKHESHE TECHNOLOGIES (PTY) LTD

Fifth Respondent

CORALITE (PTY) LTD

Sixth Respondent

*[Signature]* DRAFT ORDER

2023-08-07

Having heard counsel for the Applicant and the First and Sixth Respondents (collectively referred to below as "the Respondents"), without prejudice to the parties' rights and by agreement between the Applicant and the Respondents, an order is granted in the following terms:

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*[Signature]*  
LANDDROS/WAARDEGRATER  
REGISTRAR/GRIEFIER

OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG X9020  
CAPE TOWN 8000  
2024-02-09  
REGISTRAR 2  
WESTERN CAPE HIGH COURT

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1. The matter is postponed for the hearing of the main application to the semi-urgent roll of Tuesday, 13 February 2024.
  
2. Pending the outcome and finalisation of the semi-urgent matter:
  - 2.1. The Respondents are required, within 10 business days, to change all online/internet references from Tenet to Tenet Technology wherever they appear, including on all websites and social media accounts (but specifically excluding the domain names tenetech.co.za and tenetnsfas.co.za).
  
  - 2.2. The Respondents shall, within 10 business days of the date of this order, publish an update to the mobile and web applications ("the apps") so as to remove therefrom any reference to the mark Tenet on the mobile and web app landing and content pages other than as provided for in 2.1 above.
  
  - 2.3. The Respondents shall, within 10 business days of the date of this order, commence the process (including obtaining any consent from the Second Respondent that may be necessary) of renaming the apps in the various app stores so as to remove therefrom any reference to the mark Tenet other than as provided for in 2.1 above (and provided that the Respondents may make use of Tenet Technology in such name) and shall furnish proof thereof to the Applicant's attorney of the commencement of such process and report on the progress of the process as and when reasonable requests <sup>2023 2024 07</sup> are made by the Applicant or its attorney

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Gesertifiseer 'n ware afskrif van die oorspronklike waarna geen sigbare veranderinge deur 'n ongemagtigde persoon aangebring is nie.  
*[Signature]*  
LINDA JOHNSON  
REGISTRAR / REGISTRAR

OFFICE OF THE CHIEF JUSTICE  
PRIVATE BAG X9020  
CAPE TOWN 8000  
2024 -02- 09 <sup>DS</sup>  
REGISTRAR 2 *[Signature]*  
WESTERN CAPE HIGH COURT

*[Handwritten notes and signatures]*  
RP  
By  
*[Signature]*

- 2.4. Within 10 business days the Respondents will cease all use of NSFAA which used together with Tenet and/or Tenet Technology (unless it is clear that they are independent entities from the manner in which they are used), as part of the Respondents' branding.
- 2.5. The Respondents undertake from a date no later than 10 business days after the date of this Order not to distribute any printed matter bearing the TENET trade mark not yet distributed; provided that the Respondents may make use of Tenet Technology in such material.
- 3. The Respondents are required as soon as possible but by no later than close of business on Monday, 15 August 2023 to display and maintain until 13 February 2024 a statement on the First Respondent's website, confirming that Respondents are in no way connected or associated with the Applicant and requesting students to refrain from contacting the Applicant's offices in relation to the First Respondent's products.
- 4. The costs of the urgent application are reserved for determination by the Court hearing the semi-urgent matter.

BY ORDER OF THE COURT

2023-08-07

*[Handwritten Signature]*  
 \_\_\_\_\_  
 COURT REGISTRAR

Von Seidels  
Box 8

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*[Handwritten Signature: Halley]*  
 \_\_\_\_\_  
 LANDROES / REGISTRAR  
 REGISTREUR / REGISTRAR

OFFICE OF THE CHIEF JUSTICE  
 PRIVATE BAG 1000  
 CAPE TOWN 8000  
*[Handwritten: MSS]*  
 2024-02-09  
 REGISTRAR 2  
 WESTERN CAPE HIGH COURT

*[Handwritten: RE, On, 2]*