

ORDER under the Companies Act 2006

In the matter of application

No. 693 by Perkins Holdings Limited & Caterpillar Inc.

For a change of company name of registration

No. 8339910

DECISION

The company name SUPER PERKINS GENERAL TRADING LIMITED has been registered since 21 December 2012 under number 8339910.

By an application filed on 29 January 2014, Perkins Holdings Limited & Caterpillar Inc. applied for a change of name of this registration under the provisions of section 69(1) of the Companies Act 2006 (the Act).

A copy of this application was sent to the primary respondent's registered office on 31 January 2014, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. The copy of the application was sent by Royal Mail special delivery and provided a date of 31 March 2014 by which the respondent should file its defence. On 9 April 2014, the parties were advised that no defence had been received to the application and so the adjudicator may treat the application as not being opposed. The parties were granted a period of 14 days to request a hearing in relation to this matter, if they so wished. On 17 April 2014 the Tribunal received a letter from Reddy Siddiqui & Kabani, whose address is that of the respondent. The letter stated:

"We act as accountants and tax advisors for the above named. Our premises are being used as our clients registered office in London since 21/12/2012. Unfortunately the clients is abroad and their mail was not being attended to, hence the delay in replying to your letters dated 31/1/2014 and 9/4/2014.

With reference to your above letters requesting a hearing and the CNA2 form, please be advised that the objection by the applicant is no longer valid as the action in UAE being referred to, has been won by our client and we enclose documentary evidence to support this.

Kindly update your records and close the objection raised to our clients' company name."

The Tribunal responded by letter on 1 May 2014 to explain that a trade mark action in the United Arab Emirates was not relevant to the Company Names Tribunal application currently brought before this Tribunal. Using the discretion available to me under s.7(1) I allowed a further 14 day period, until

15 May 2014, for the respondent to file its defence in this matter. The primary respondent did not file a defence within the two month period specified by the adjudicator under rule 3(3), nor within the extended period provided in the Tribunal letter dated 1 May 2014.

Rule 3(4) states

“The primary respondent, before the end of that period, shall file a counter-statement on the appropriate form, otherwise the adjudicator may treat it as not opposing the application and may make an order under section 73(1).”

Under the provisions of this rule, the adjudicator may exercise discretion so as to treat the respondent as opposing the application. In this case I can see no reason to exercise such discretion and, therefore, decline to do so.

As the primary respondent has not responded to the allegations made, it is treated as not opposing the application. Therefore, in accordance with section 73(1) of the Act I make the following order:

- (a) SUPER PERKINS GENERAL TRADING LIMITED shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) SUPER PERKINS GENERAL TRADING LIMITED shall:
 - (i) take such steps as are within its power to make, or facilitate the making, of that change;
 - (ii) not to cause or permit any steps to be taken calculated to result in another company being registered with a name that is an offending name.

If no such change is made within one month of the date of this order, I will determine a new company name as per section 73(4) of the Act and will give notice of that change under section 73(5) of the Act.

Perkins Holdings Limited & Caterpillar Inc., having been successful, is entitled to a contribution towards its costs. I order SUPER PERKINS GENERAL TRADING LIMITED to pay Perkins Holdings Limited & Caterpillar Inc. costs on the following basis:

Fee for application:	£400
Statement of case:	£400
Total:	£800

This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

Any notice of appeal against this decision to order a change of name must be given within one month of the date of this order. Appeal is to the High Court in England, Wales and Northern Ireland and to the Court of Session in Scotland.

The company adjudicator must be advised if an appeal is lodged, so that implementation of the order is suspended.

Dated this 3rd day of June 2013

Al Skilton
Company Names Adjudicator

ⁱAn “offending name” means a name that, by reason of its similarity to the name associated with the applicant in which he claims goodwill, would be likely— to be the subject of a direction under section 67 (power of Secretary of State to direct change of name), or to give rise to a further application under section 69.