

ORDER for payment of costs under the Companies Act 2006

In the matter of application No 709

by International Business Machines Corporation

for a change of the company name of registration

No 08841739

The company name *IBM Caremedical Ltd* had been registered since 13 January 2014 under number 08841739. By an application filed on 5 March 2014, *International Business Machines Corporation* applied for a change of name of this registration under the provisions of section 69(1)(b) of the Companies Act 2006 (the Act).

A copy of this application was sent to the primary respondent's registered office on 11 March 2014 in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. The primary respondent did not file a defence but on 1 April 2014 it voluntarily changed its name to *JT & I Caremedical Ltd*, a name that no longer attracted an objection from the applicant.

On 30 April 2014, the Tribunal informed the applicant that the primary respondent's name had been changed, that the application appeared to be without object and that it was minded to close the case. On 15 May 2014, the primary respondent requested an award of costs to at least cover the fee of application and statement of case, a total of £700. On 4 June 2014, the primary respondent pointed out that it was a new company and had not started trading and is unable to pay any costs. It further states that its intentions were not malicious and that the IBM element of its company name reflected the initials of the writer, Immaculate Mabena. Finally, it also claims that it did not have sufficient time "to make adequate enquiries and therefore make an informed decision".

Rule 11 of The Company Names Adjudicator Rules 2008 states:

"11. The adjudicator may, at any stage in any proceedings before him under the Act, award to any party by order such costs (in Scotland, expenses) as he considers reasonable, and direct how and by what parties they are to be paid."

The applicant has stated that it first wrote to the primary respondent on 21 January 2014 requesting that it change its name and that if it failed to the applicant would apply to the Company Names Tribunal for an order to be made to change its name. The letter and a copy of proof of posting were provided with its application. It subsequently applied to the Tribunal on 5 March. The primary respondent has had, therefore, since 21 January to consider the issue. Consequently, I dismiss its claim that it has had insufficient time to consider its position. I also note that it also claims that the primary respondent is unable to pay costs and that the application was not

made with malicious intent. Neither of these arguments negate the fact that the applicant has faced costs as a result of bringing the action and these could have been avoided if the primary respondent had acted earlier.

In light of this, despite the primary respondent having changed its name, I consider it appropriate to compensate the applicant. Accordingly, I order *JT & I Caremedical Ltd*, previously called *IBM Caremedical Ltd*, to pay costs on the following basis:

Fee for application:	£400
Statement of case:	£300
Total:	£700

This sum should be paid within one month of the date of this order.

Dated this 11th day of June 2014

Mark Bryant
Company Names Adjudicator