O-301-14

ORDER under the Companies Act 2006

In the matter of application No 718

By HIBU (UK) Limited

for a change of company name of registration

No. 08851040

DECISION

The company name YELL LTD has been registered since 17 January 2014 under number 08851040.

By an application filed on 31 March 2014, HIBU (UK) Limited 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 2 April 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. On the same date, the Tribunal wrote to Mr Mizanur Rahman to inform him that the applicant had requested that he be joined to the proceedings. No comments were received from Mr Rahman in relation to this request. On 13 May 2014, Mr Rahman was joined as a co-respondent. On the same date, 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 these matters, if they so wished; the letter sent to Mr Rahman was returned to the Tribunal marked "Please return to sender". No request for a hearing was made by either the primary respondent or the applicant.

The primary respondent did not file a defence within the one month period specified by the adjudicator under rule 3(3). 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) YELL LTD shall change its name **within one month** of the date of this order to one that is not an offending name[i];

(b) YELL LTD and Mr Mizanur Rahman shall:

(i) take such steps as are within their power to make, or facilitate the making, of that change;

(ii) not 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.

All respondents, including individual co-respondents, have a legal duty under Section 73(1)(b)(ii) of the Companies Act 2006 not to cause or permit any steps to be taken calculated to result in another company being registered with an offending name; this includes the current company. *Non-compliance may result in an action being brought for contempt of court and may result in a custodial sentence.*

HIBU (UK) Limited having been successful is entitled to a contribution towards its costs. I order YELL LTD and Mr Mizanur Rahman being jointly and severally liable, to pay HIBU (UK) Limited 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 11th day of July 2014

Christopher Bowen
Company Names Adjudicator

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[i]An "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.