

O-028-17

ORDER under the Companies Act 2006

In the matter of application

No. 1304 by Swarovski AG

For a change of company name of registration

No. 10180911

DECISION

The company name SWAROVSKI WEDDING ELEMENTS LTD has been registered since 16 May 2016 under number 10180911.

By an application filed on 01 November 2016, Swarovski AG 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 the application was sent by Royal Mail recorded delivery to the primary respondent's registered office on 07 November 2016, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. On the same date, the Tribunal wrote to Irene Stavrianou to inform her that the applicant had requested that she be joined to the proceedings. On 20 December 2016, Irene Stavrianou was joined as a co-respondent and the parties were advised that, as no defence had been received to the application, the adjudicator may treat the application as not being opposed. A period of 14 days to request a hearing was allowed in relation to this matter. No request for a hearing was made.

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) SWAROVSKI WEDDING ELEMENTS LTD shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;

(b) SWAROVSKI WEDDING ELEMENTS LTD and Irene Stavrianou 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.

In accordance with s. 73(3) of the Act, this order may be enforced in the same way as an order of the High Court or, in Scotland, the Court of Session.

In any event, 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.

In accordance with paragraph 10.4.1 of 'The Company Names Tribunal: practice direction', I make no award of costs as none have been requested by the applicant.

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 25th day of January 2017



Beverley Hedley
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.