

O-052-16

ORDER under the Companies Act 2006

In the matter of application No. 1049

By Mondelez UK Limited

for a change of company name of registration

No. 09467842

DECISION

The company name MONDELEZ ENTERPRISE LTD has been registered since 3 March 2015.

By an application filed on 10 November 2015, Mondelez 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 11 November 2015, 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. The application was returned to the tribunal by the Royal Mail on 19 November 2015 marked "RTS". The application was resent to the primary respondent's registered office by ordinary post on 20 November 2015. On 4 December 2015, this letter was also returned to the tribunal marked "R.T.S." and "addressee unknown." The envelope also contains handwritten text which although partially obscured appears to read "The person does not...any more."

On 5 January 2016, 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. No request for a hearing was made. I note that the letter which was sent to the primary respondent's registered office by ordinary post on 5 January 2016 was not returned to the tribunal.

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

(b) MONDELEZ ENTERPRISE LTD shall:

(i) take such steps as are within its 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.

Mondelez UK Limited having been successful is entitled to a contribution towards its costs. I order MONDELEZ ENTERPRISE LTD to pay to Mondelez UK Limited costs on the following basis:

Fee for application: £400

Statement of case: £200

Total: £600

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 28TH day of January 2016

Christopher Bowen
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.