

O-081-17

ORDER under the Companies Act 2006

In the matter of application No. 1306

By Aldi Stores Limited

for a change of company name of registration

No. 10317686

DECISION

The company name ALDER GERMANY LIMITED has been registered since 8 August 2016.

By an application filed on 4 November 2016, Aldi Stores 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 the application was sent to the primary respondent's registered office on 14 November 2016, 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. That letter was returned to the tribunal by the Royal Mail marked "refused".

On 6 January 2017, 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. The letter sent to the primary respondent included all of the documents contained in the original letter which was returned to the tribunal marked refused. The letter of 6 January 2017 sent to the primary respondent has not been 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:

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(a) ALDER GERMANY LIMITED shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;

(b) ALDER GERMANY LIMITED 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 section 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.

As the applicant has not sought an award of costs, in line with the guidance provided in paragraph 10.4.1 of the tribunal's practice direction, I make no award.

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 21st day of February 2017

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.