

O-568-17

ORDER under the Companies Act 2006

In the matter of application No. 1539

By Sky UK Limited

for a change of company name of registration

No. 09984293

DECISION

The company name SKY PROTECT LTD has been registered since 3 February 2016.

By an application filed on 10 August 2017, Sky 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 14 August 2017, 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 Ali Cherif Belalia Taha to inform him that the applicant had requested that he be joined to the proceedings. No comments were received from Mr Taha in relation to this request. The letter sent to the primary respondent was returned to the tribunal marked "RTS" i.e. Return to Sender; it was reissued by ordinary post on 30 August 2017. That letter was also returned to the tribunal marked "RTS".

On 22 September 2017, Mr Taha was joined as a co-respondent; he was granted a period of 14 days to request a hearing in relation to this matter. No request for a hearing has been received. On the same date, the primary respondent and applicant 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; no request for a hearing was received.

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.

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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) SKY PROTECT LTD shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) SKY PROTECT LTD and Mr Ali Cherif Belalia Taha 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 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.

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.*

Costs

In a letter to the applicant dated 10 October 2017, the tribunal stated:

“I write in relation to the above proceedings and note that on form CNA1 filed on 10 August 2017, you indicate that you intend to claim costs and that you contacted Sky Protect Ltd in relation to this matter prior to filing the application, referring specifically to a letter dated 16 December 2016.

Could you please provide copies of this correspondence within 2 weeks of the date of this letter, which is on or before 24 October 2017.

Please be advised that should this period not be complied with, the adjudicator will not be awarding costs.”

As the applicant elected not to respond to that invitation, I make no order as to costs.

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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 13th day of November 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.