

# O-492-17

## ORDER under the Companies Act 2006

In the matter of application No. 1455

By Intel Corporation

for a change of company name of registration

No. 10640538

### DECISION

The company name INFO INTEL LTD has been registered since 27 February 2017.

By an application filed on 26 May 2017, Intel Corporation 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 June 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 31 August 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 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) INFO INTEL LTD shall change its name **within one month** of the date of this order to one that is not an offending name<sup>i</sup>;

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(b) INFO INTEL 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 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.

### **Costs**

Box 7 of the Form CNA1 reads as follows:

“Did you contact the company/limited liability partnership in relation to this matter prior to filing the application? If so, when did you do so and what did you say to the company/limited liability partnership?”

In response to those questions, the applicant stated:

“Yes. The Applicant’s representatives wrote to the Company on 20 March 2017 to ask the Company to change its name. The Applicant’s representatives sent further letters to the Company on 30 March, 4 April and 25 April 2017 but it has not received any response and the Company’s name remains unchanged.”

At box 17 of the Form CNA1, the applicant indicated it was claiming costs.

In an official letter dated 22 September 2017, the tribunal stated:

“..the case is ready for an Order to be issued.

However before the adjudicator can consider issuing an Order please can you file a copy of the correspondence that you refer to at question 7 of the form CNA1...”

A period of two weeks was allowed for this purpose. The applicant responded in a letter dated 27 September 2017, attached to which was a copy of the applicant’s letter sent to the primary respondent on 20 March 2017. That letter before action sets out the applicant’s position and concludes in the following terms:

**“4. Required Next Steps**

Intel requires written undertakings from you in the form enclosed [copies of the undertakings referred to have not been provided by the applicant]...

If we do not receive the written undertakings from you by 3 April 2017, or if you fail to comply with any of the undertakings, we are instructed to consult with Intel in relation to taking further action against your company.”

Paragraph 10.4.1 of the tribunal’s practice direction, reads as follows:

“If an application is undefended, an award of costs is likely to be made against the respondent, provided a request for costs has been made by the applicant and pre-action enquiries have been made, and provided the application succeeds. It should be noted, however, that the adjudicator will not normally award costs to the applicant if the respondent, whilst not defending the application, nevertheless satisfies the tribunal that it did not receive any notice, or did not receive adequate notice, that the application would be made. The adjudicator will, likewise, normally not award costs if the applicant indicates in box 7 of the application form (CNA1) that it did not contact the company prior to making the application.”

As the applicant did not advise the primary respondent that failure by it to comply with its requests may result in an application to this tribunal and an associated request for costs, I make no award of costs to 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 11th day of October 2017

Christopher Bowen  
Company Names Adjudicator

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<sup>i</sup>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.