

ORDER under the Companies Act 2006

In the matter of application No. 1371

By Virgin Enterprises Limited

for a change of company name of registration

No. 10276057

DECISION

The company name VIRGIN MEDIA CLOUD LTD has been registered since 13 July 2016.

By an application filed on 3 February 2017, Virgin Enterprises 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 20 February 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. That letter was returned to the tribunal by the Royal Mail marked "not called for"; it was then re-issued by ordinary post. Also on 20 February 2017, the tribunal wrote to Mr Ervin Radosavlevici to inform him that the applicant had requested that he be joined to the proceedings. No comments were received from Mr Radosavlevici in relation to this request.

On 26 April 2017, Mr Radosavlevici 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 was 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.

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) VIRGIN MEDIA CLOUD LTD shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) VIRGIN MEDIA CLOUD LTD and Mr Ervin Radosavlevici 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 an official letter dated 8 June 2017, the tribunal advised the parties that:

“As no request for a hearing has been received the case will now will be passed to the adjudicator to issue a decision.

Please be aware that as the applicant has neither requested a costs award in the Form CNA1 nor mentioned costs in any of the pre-action correspondence it sent to the respondent, the adjudicator will not be making an award of costs.”

I note that none of the parties to these proceedings reacted to that letter.

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 14th day of July 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.