

O-009-18

ORDER under the Companies Act 2006

In the matter of application

No. 1423 by CASIO ELECTRONICS CO LIMITED

For a change of company name of registration

No. 10246530

DECISION

The company name CASIO SERVICES LIMITED has been registered since 22 June 2016 under number 10246530.

By an application filed on 3 May 2017, CASIO ELECTRONICS CO 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 19 May 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 Mr Denis Boyle (the respondent's Director) to inform him that the applicant had requested that he be joined to the proceedings. The letter to the primary respondent was returned marked "Refused" and was therefore re-issued by standard mail.

On 6 July 2017, the primary respondent filed a form CNA2 which was unsigned. In response, on 31 August 2017, the Tribunal sent a revised version of form CNA2 with a request for signature and clarification of the grounds for defence. The primary respondent was granted a period of 14 days in which to file a revised CNA2. At the same time, Mr Denis Boyle was joined as a co-respondent. No replies were received.

On 29 September 2017, the letters of 31 August 2017 were re-issued to both the primary respondent and to Mr Boyle because the respondent's registered office address had changed. The letter to the primary respondent was returned marked "Return to Sender".

In the absence of a response, on 9 November 2017, the Tribunal re-issued letters dated 31 August 2017 and 29 September 2017 to the primary respondent to the previous registered office address and to the new registered office address. The primary respondent was granted a period of 14 days in which to file a correctly completed CNA2 and advised that if a CNA2 was not filed within this time period, the Tribunal would consider the application as not being opposed and issue a decision to this effect. The letter to the primary respondent's new registered office address was returned marked "Return to Sender". No other reply was received.

The primary respondent did not file a defence within the two month period specified by the adjudicator under rule 3(3). Rule 3(4) states

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“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) CASIO SERVICES LIMITED shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) CASIO SERVICES LIMITED and Mr Denis Boyle shall:
 - (i) take such steps as are within their power to make, or facilitate the making, of that change;
 - (ii) not to 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 these orders, 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.*

Casio Electronics Co Limited did not request its costs in its statement of case. As such, and in line with paragraph 10.4 of the Tribunal's Practice Direction, I make no award of costs in its favour.

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.

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Dated this 4th day of January 2018

Oliver Morris
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.