

ORDER under the Companies Act 2006

In the matter of application

No. 124 by Deutsche Telekom AG

For a change of company name of registration

No.07000630

DECISION

The company name TMOBILENIGERIA LTD has been registered since 25th August 2009 under number 07000630.

By an application filed on 10th November 2009, Deutsche Telekom AG applied for a change of name of this registration under the provisions of section 69(1)(b) of the Companies Act 2006 (the Act). The applicant also joined Mr James Abiodun Epetimehin, director and company secretary of the registered company, as a co-respondent. Mr Epetimehin did not object to being joined in the proceedings as a co-respondent.

A copy of this application was sent, via special delivery, to the primary respondent's (ie TMOBILENIGERIA LTD's) registered office on 30th November 2009, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. This was returned marked 'not called for'. In accordance with established practice the letter was resent using ordinary post.

The primary respondent did not file a defence within the 2 month period specified by the adjudicator under rule 3(3) which expired on 30th January 2010. 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) TMOBILENIGERIA LTD shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;

(b) TMOBILENIGERIA LTD and Mr James Abiodun Epetimehin 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.

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.

Deutsche Telekom AG having been successful is entitled to a contribution towards its expenses. I order TMOBILENIGERIA LTD and Mr James Abiodun Epetimehin (being jointly and severally liable) to pay Deutsche Telekom AG expenses on the following basis:

Fee for application:	£400
Statement of case:	£200
Total:	£600

This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

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 18 day of February 2010

Edward Smith
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.