

ORDER under the Companies Act 2006

In the matter of application No 91

by Littlewoods Limited

for a change of the company name of registration

No 06938468

DECISION

The company name Woolworth 2009 Limited (the respondent) has been registered since 19 June 2009 under number 06938468.

On 25 June 2009 Littlewoods Limited wrote to Woolworth 2009 Limited advising that unless action was taken to change the name of the company an application to the Company Names Tribunal would be made.

By an application filed on 27 July 2009, Littlewoods Limited applied for a change of name of this registration under the provisions of section 69(1)(b) of the Companies Act 2006 (the Act).

A copy of this application was sent to the primary respondent's registered office on 12 August 2009, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008.

The primary respondent did not file a defence within the 1 month period specified by the adjudicator under rule 3(3).

A letter was received from Mr Malcolm Margo on behalf of the respondent stating that he did not intend filing a defence the application, although he did give reasons as to why he decided to register the company name:

"The Brief Circumstances are follows When Woolworth went in Administration I contacted a formation agent to see if the company name was available and was informed that it was, and completed the documentation that was, in January 2009 the Company It did not get formed until June, because I used my home in the Guernsey which was out the U K Jurisdiction. I then gave an English address and then everything was completed."

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. Taking into account the notice given to the respondent, the statement that Mr Margo has decided that it not necessary for him to complete a defence and the reasons he has given in his letter for choosing the name, I see no reason that discretion should be exercised and, therefore, decline to do so.

As the primary respondent has not filed a defence, it is treated as not opposing the application. Therefore, in accordance with section 73(1) of the Act I make the following order:

- (a) Woolworth 2009 Limited shall change its name **within one month** of the date of this order to one that is not an offending nameⁱ;
- (b) Woolworth 2009 Limited 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.

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.

Littlewoods Limited having been successful is entitled to a contribution towards its costs. I order Woolworth 2009 Limited to pay Littlewoods Limited costs on the following basis:

Fee for application:	£400
Statement of case:	£300
Total:	£700

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 day 28th of September 2009

David Landau
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.