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Companies Act 2006

In the matter of application No 840

by Amanda Jane Vincent

For a change of company name registration

No. 08226295

BACKGROUND

1. The company name White Box Photography (UK) Ltd has been registered since 24 September 2009 under number 08226295.
2. By an application filed on 5 December 2014, Amanda Jane Vincent applied for a change of name of this registration under the provisions of section 69(1) of the Companies Act 2006 ("the Act"). Ms Vincent stated in her application that she is a minority shareholder, but not an employee or a director, of a company called White Box Photography Limited, which is the name which she states is associated with her.
3. On 31 March 2015, the Company Names Adjudicator wrote to Ms Vincent in the following terms:

"Under the terms of section 69(1) of the Companies Act 2006, you (the applicant) must be able to demonstrate that you own goodwill/reputation in the name White Box Photography Limited, if you cannot the claim will fail. The pleadings can be amended so the applicant is White Box Photography Limited, however as you are a minority shareholder and not an officer of the company, you would have to show that you have the authority to bring the action on behalf of the company.

A period of fourteen days i.e. on or before **14 April 2015** is allowed for a reply, if no response is received, the Tribunal may strike out the application as having no real prospect of success (Rule 5(2) of the Company Names Adjudicator Rules refers)."

4. No response to this letter was received by the Company Names Tribunal by 14 April 2015. Ms Vincent sent a letter dated 1 May 2015 which was received in the Tribunal on 5 May 2015. Neither the letter, nor the attachments to the letter, addressed the issues raised by the Tribunal in its letter of 31 March 2015. In fact, the attachments confirmed that Ms Vincent is a minority shareholder in White Box Photography Limited, but not a director or officer.

DECISION

5. Section 69 of the Companies Act states:

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“(1) A person (“the applicant”) may object to a company’s registered name on the ground—

(a) that it is the same as a name associated with the applicant in which he has goodwill, or

(b) that is sufficiently similar to such a name that its use in the United Kingdom would be likely to mislead by suggesting a connection between the company and the applicant.

(2)

(3)

(4) If the ground specified in subsection 1(a) or (b) is established, it is for the respondents to show—

(a) that the name was registered before the commencement of the activities on which the applicant relies to show goodwill; or

(b) that the company—

(i) is operating under the name, or

(ii) is proposing to do so and has incurred substantial start-up costs in preparation, or

(iii) was formerly operating under the name and is now dormant; or

(c) that the name was registered in the ordinary course of a company formation business and the company is available for sale to the applicant on the standard terms of that business; or

(d) that the name was adopted in good faith; or

(e) that the interests of the applicant are not adversely affected to any significant extent.

If none of those is shown, the objection shall be upheld.

(5) If the facts mentioned in subsection 4(a), (b) or (c) are established, the objection shall nevertheless be upheld if the applicant shows that the main purpose of the respondents (or any of them) in registering the name was to obtain money (or other consideration) from the applicant or prevent him from registering the name.

(6) If the objection is not upheld under subsection (4) or (5), it shall be dismissed.

(7)

6. Rule 5(2) of the Company Names Adjudicator Rules provides:

“The adjudicator may strike out the application or any defence in whole or in part if it is vexatious, has no reasonable prospect of success or is otherwise misconceived.”

7. The presence of the word ‘may’ indicates that the adjudicator has a discretion in this matter. Ms Vincent has (i) provided no answer which shows that she owns goodwill/reputation in the name White Box Photography Limited; (ii) has not asked to amend the pleadings to substitute White Box Photography Limited as the applicant and (iii) has not shown that even if such a request was made that she has the authority to do so. No hearing was requested in response to the letter of 31 March 2015. As the claim will fail if the applicant, Ms Vincent, cannot show that she personally has goodwill/reputation in the name and as she has not shown the Tribunal why it is that she has such goodwill/reputation, the application has no reasonable prospect of success and is misconceived. In this case I can see no reason to allow the application to continue and, therefore, decline to do so.

8. I hereby strike out the application made on 5 December 2014 by Amanda Jane Vincent for a change of company name registration number 08226295 because the application has no reasonable prospect of success and is misconceived.

9. Any notice of appeal against this decision must be given within one month of the date of this decision. Appeal is to the High Court in England, Wales and Northern Ireland and to the Court of Session in Scotland.

Dated this 3rd day of August 2015

Judi Pike
Company Names Adjudicator