

# **O-231-17**

## **ORDER under the Companies Act 2006**

**In the matter of application**

**No. 1344 by Volvo Trademark Holding AB**

**For a change of company name of registration**

**No. 10247039**

## **DECISION**

The company name Volvo Group Trucks Ltd has been registered since 23 June 2016.

By an application filed on 03 January 2017, Volvo Trademark Holding AB 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 by Royal Mail recorded delivery to the primary respondent's registered office on 20 January 2017, in accordance with rule 3(2) of the Company Names Adjudicator Rules 2008. On the same date, the Tribunal wrote to Tofikuddin Ovaysi to inform him that the applicant had requested that he be joined to the proceedings. The letter to Tofikuddin Ovaysi was returned marked 'RTS'. It was re-sent by ordinary post. On 31 March 2017, Tofikuddin Ovaysi was joined as a co-respondent and the parties were advised that, as no defence had been received to the application, the adjudicator may treat the application as not being opposed. A period of 14 days to request a hearing was allowed in relation to this matter. No request for a hearing was made.

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

"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) Volvo Group Trucks Ltd shall change its name **within one month** of the date of this order to one that is not an offending name<sup>i</sup>;
- (b) Volvo Group Trucks Ltd and Tofikuddin Ovaysi 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 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 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.*

Volvo Trademark Holding AB has been successful as the application has not been defended. Accordingly, I have considered whether it is appropriate to make an award of costs in their favour. The following question is asked at box 7 of the statutory application form (CNA1):

“Did you contact the company/limited liability partnership in relation to this matter prior to filing the application? If so, when did you do so and what did you say to the company/limited liability partnership?”

The following answer is given to this question:

“No”

As Volvo Trademark Holding AB did not inform Volvo Group Trucks Ltd of its intention to file the subject application with the Company Names Tribunal, it is not entitled to an award of costs.

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 15<sup>TH</sup> day of May 2017

Beverley Hedley  
Company Names Adjudicator

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<sup>i</sup>An “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.