

Company names and the Company Names Adjudicator

A new provision under the Companies 2006 Act is in force in relation to company names. Under 2006 Act, any 'person' can complain to a company names adjudicator if:-

- a company's name is the same as a name associated with the applicant in which he has goodwill; or
- a company's name is sufficiently similar to that of the applicant that it is likely to mislead by suggesting a connection between the company and the applicant.

These new provisions go further than the provisions under the Companies Act 1985 which provided grounds for objection only if the registered name of a company was similar to that of another registered company. Although these new provisions will offer some protection against opportunistic registrations of a particular company name, if your corporate branding/name/logo is of value to you then the best way to protect that is to check whether it is capable of registering as a trade mark (i.e. does it meet the criteria) and if so, proceed to register as a trade mark. The new provisions do not diminish the value of a registered trade mark.

If you are considering changing your company name/trading name/branding then it is important to carry out preliminary searches including searches against the register of companies and against the register of trade marks to make sure the name is not too alike a current registered name and/or that it does not infringe a registered trade mark otherwise, if you trade under that name, an objection may be made to the Company Names Tribunal (under the 2006 Act) and/or proceedings may be commenced for trade mark infringement. These searches should be carried out before you invest time and money in new stationery/marketing etc.

In it's first decision since the new legislation came into force, a company called "Coke Cola Limited" was deemed by the Company Names Adjudicator to be sufficiently similar to the name "The Coca-Cola Company Limited" to lead to a suggestion that there was a connection between the two. Subsequently Coke Cola Limited was ordered to change its name within 1 month and to pay £700 to The Coca-Cola Company Limited. This case does highlight that the decision by the Adjudicator under the new legislation will have retrospective effect. Coke Cola Limited had been formed some 8 months prior to the application by The Coca-Cola Company Limited and 8 months prior to the new provisions coming into force!