From 1 October 2008, there will be a new right to object to a company's registered name (sections 69-74 of the Companies Act 2006). The purpose of the new rules is to address the problem of opportunistic registration of company names.

Grounds for objection

Any person will be able to object to a company's registered name if the name is:

- the same as a name associated with the objector and in which he has goodwill; or
- similar enough to such a name that its use in the UK would be likely to mislead by suggesting a connection between the company and the objector.

The objector does not need to be a company.

Defences to an objection

The Act lists specific circumstances in which there will be a presumption the company's name was registered legitimately. These include that:

- registration took place before the start of the activities on which the objector relies to show his goodwill;
- the company is carrying on business under the name;
- the company is proposing to carry on business under the name and has incurred substantial start-up costs in preparation;
- the name was adopted in good faith;
- the interests of the objector are not adversely affected to any significant extent.

If one of these presumptions applies, the objection must be dismissed unless the objector can show the respondent registered the name either to obtain money from the objector or to prevent him registering the name. In that case, the objection must in most circumstances be upheld.

If none of the presumptions applies, the objection must also be upheld.

Effect of successful objection

If an objection is upheld, the offending company name must change to one that does not raise an objection within the time prescribed by the adjudicator. If the company fails to do so, the adjudicator may determine a new name for the company.

Company names adjudicator

A new company names adjudicator will consider objections against a company's registered name under these new rules. The first adjudicators will come from the UK Intellectual Property Office tribunal hearing officers.

Contacts

If you would like further information on this subject please get in touch with your usual contact or:

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