

## New System for Attacking Abusive Company Name Registrations

On 1 October 2008, the Company Names Adjudicator Rules 2008 came into force, giving effect to Sections 69 - 74 of the Companies Act 2006. This introduced a system of adjudication in instances where a person or business objects to the registration of a company name that is abusive or opportunistic.

Under this new system, a person or business (the Applicant) may object to the registration of a company name that is either:

- a. the same as a name in which the Applicant has a reputation/goodwill, or
- b. sufficiently similar to such a name that its use in the UK would be likely to mislead by suggesting a connection between the company and the Applicant.

Proceedings are administered by the Company Names Tribunal and cases will be decided by Company Names Adjudicators, who are Hearing Officers based at the UK Intellectual Property Office.

Prior to October 2008, there was no specific procedure in place for objecting to a company name registration on the basis of IP rights, and the only real option available to an IP rights owner was to bring proceedings for trade mark infringement and/or passing off, and to seek an injunction requiring the registrant to change its company name. The new system is designed to provide a quicker and cheaper remedy to those affected by abusive company name registrations.

Some important points to note about the new system are:

In order to fall under the jurisdiction of the Company Names Tribunal, the company name registration must be abusive or opportunistic, i.e. there must be an intention on the part of the Registrant to obtain money from the Applicant, or to prevent the Applicant from registering the name themselves.

The Companies Act 2006 sets out a wide range of defences on which the Registrant of a company name may rely, and the mere existence of earlier rights will not necessarily be sufficient to succeed in an application to the Company Names Tribunal.

If an application is successful, the Adjudicator will order the Registrant to change the company name registration to something which does not offend. If the Registrant does not do this, the Adjudicator has the power to order the Registrar of Companies to change the name to a name of the Adjudicator's choosing.

The Company Names Adjudicator may also award costs to any party in the proceedings. Such costs will normally be awarded according to the published Scale of Costs, and will not represent the actual costs incurred.





### Further advice

If you believe your trade mark may be the subject of an abusive company name registration and you require our further advice or assistance, or you would like further information on the Company Names Tribunal, please get in touch with your usual contact at Dehns using the details below.

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