



Advancing Industry's View On Intellectual Property Since 1920

Lord Sainsbury of Turville  
Parliamentary Under-Secretary of State for Science and Innovation  
Department of Trade and Industry  
1 Victoria Street  
London SW1H 0ET

15 February 2006

Ref: TM10C18/06

Dear Minister

## **Company Names**

A company's good name is one of its most valuable assets. The high reputations of the names of the companies in this UK Federation, and of the names in their trade marks, underwrite the trading profits needed to maintain the UK's prosperity and place in the world.

Company House registration practice at present permits the registration of deceptively similar names that take advantage of the reputations of our companies. Although the present law provides that a name that is "too like" an earlier one should not be registered, registration practice is to admit a "copycat" name unless it is identical to an existing name on the register. Thus unrelated companies can and do trade under the reputations of established companies, hitting at their sales and profits. Moreover, "identity theft" has been facilitated - well documented cases exist.

As a result, our member companies are involved in very considerable expense in: (i) monitoring and attempting to dissuade those who take advantage of their names as a result of current registration practice; (ii) making unnecessary registrations to protect themselves; (iii) negotiating buy-outs of similar names that have been permitted to be registered; and (iv) bringing court actions under common law for passing off, where possible. Even so, the activities of "copycats" are very damaging.

The White Paper on Company Law Reform appeared to recognise the problems and promised that new legislation would require a company to change its registered name if it was chosen to exploit another's reputation or goodwill. We welcomed this intention.

However, the Company Law Reform Bill presently before Parliament contains so many escape provisions that it will be of little value in dealing with the problems. While Clause 70(1) enables an owner of a name in which there is goodwill to object to the registration of the same or a similar name that is likely to mislead, Clause 70(4) provides an extensive list of reasons for dismissing the objection. Among these are that the respondent company has simply revived a dormant name, or

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that it is merely proposing to operate under the name, or that it has registered the name as part of a company formation business, or that the name was adopted "in good faith", whatever that means. The only valid reason, or so it seems to us, should be that the name was registered before the goodwill was established, and has continued in use since registration.

Officials have argued that similar names will only be allowed to remain on the register for good reasons. However, consideration of the extensive list of so-called reasons in Clause 70(4), referred to above, indicates that more or less any reason, good or bad, will be admitted.

We have submitted a detailed paper to the DTI setting out our objections more fully and making some simple and straightforward proposals for overcoming the problems and implementing the White Paper's proposals. So far as we can see, there is no good reason for rejecting them.

***It would be much appreciated if you would agree to meet me and a small number of representatives of member companies of the Federation, as soon as possible, to discuss the problems and how the Bill might be amended.*** It will be appreciated if your office will contact the Federation's secretary to make arrangements. The opportunity afforded by the Bill to deal with the abuses that presently occur should not be lost.

Yours sincerely

Mike Barlow  
President.

Enc: TMPDF members' list