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Article

Title: Protection from unscrupulous 'brand squatters'

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Recent changes to the Companies Act have made it easier for firms to challenge 'brand squatters' says Dermot Rayner, solicitor at Phillips Solicitors. 'Since October this year, unscrupulous firms have been less able to register names opportunistically at Companies House in the hope that they can be sold back to the rightful owner for a profit.'

Under the new regulation, if names are deemed to have been registered in bad faith, they might be forced to change, if they are the same or similar to those already in use as a brand name. The new statutory body, called the Company Names Adjudicator, oversees the challenges to registered company names. The adjudicator will decide whether company names which are not used in the course of trade have been registered simply to capitalise on existing brands. If the complaint is successful, the adjudicator can force the opportunistically registered name to be changed on the grounds that the names are the same as, or similar to those already in use as a brand name and they have been registered in bad faith. It will also have the power to force the companies to pay the costs of the challenging company.

These legislative changes arose as it became apparent that individuals and companies had registered company names with the sole intention of selling them on to the brand name owner or as a means of preventing competitors from registering a particular brand name. A business can thwart a competitor by pre-emptively registering a whole range of names. This was particularly a problem for companies which had not yet been incorporated but where news of their impending launch had been leaked to the press, or for companies which had yet to begin trading or were in the early days of trading and therefore had not yet established common law rights to a name via use and had not yet registered the name as a trademark. However, the

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Company Names Adjudicator does not deal with disputes involving registered trademarks or with the similar practice called 'cyber squatting'.

Dermot Rayner comments: 'We anticipate that the new law making it easier to challenge brand squatters could lead to a massive increase in retrospective disputes, as well as future registrations, as brand owners retrospectively make claims against opportunistic registrations.'

For more advice call Dermot on 01256 854608 or visit our website at www.phillips-law.co.uk

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