

DECISION OF THE TRADE MARKS REGISTRY

TRADE MARKS ACT 1994

APPLICANT: EASYJET AIRLINE COMPANY LIMITED

INVALIDITY N^o. 11788

AND

REGISTERED PROPRIETOR: EASYPACK LIMITED

REGISTRATION N^o. 2219860

CLASSES 7, 16, 17

Easyair

TRADE MARKS ACT 1994

**Application N^o. 11788 by easyJet Airline Company Limited
for a declaration of invalidity
for mark N^o: 2219860
in the name of Easypack Limited**

BACKGROUND

Trade mark in issue

1. The registered mark:

Easyair

was applied for on 20th January 2000 by Easypack Limited of Unit 9, Mundells Industrial Centre, Little Mundells, Welwyn Garden City, Hertfordshire, AL7 2AA for:

Class 7: Machines for the manufacture of plastics packaging and/or paper packaging; parts and fittings therefore.

Class 16: Plastics materials for wrapping and packaging; paper for wrapping and packaging.

Class 17: Plastics stuffing materials.

2. On 2nd August 2000, the easyJet Airline Company Limited (which I will call 'easyJet') applied for invalidation of the mark under s. 47(2) of the Act, alleging rights in a number of what they called 'easy' marks, basing their attack on ss. 5(2)(b), 5(3) and 5(4)(a). They are the proprietors of the marks shown in the ANNEX.
3. A Counterstatement was provided by the Registered Proprietor (Easypack) denying the grounds asserted. Both parties ask for costs to be awarded in their favour.

HEARING

4. The matter was heard on 17th of October 2002, where the applicants (easyJet) were represented by Mr. Roberts of Counsel, advised by Messrs. Page, White & Farrer, and the Registered Proprietor (Easypack) by Mr. Norris of Counsel, advised by Messrs. Wildbore & Gibbons.

EVIDENCE

5. This is reasonably extensive from easyJet, appearing in the three Witness Statements by Mr. James Rothnie, their Director of Corporate Affairs. I consider it expedient to deal with the majority of this evidence in the form of a commentary as to its worth, and do so below (see

paragraph 11ff). This is largely because the notoriety easyJet claim is relevant to each of the grounds they plead, and I wish to set out my view on this plainly, independent of other issues to which the evidence pertains.

6. For example, Exhibit JR1 of the second Witness Statement of Mr. Rothnie, which contains a letter from Mr. Moorhouse, the Marketing Director of Easypack. It states:

“Domain Name: easyair.com

Easypack Limited are owners of the above Domain Name and are approaching you to offer Go Fly the opportunity of acquiring this name.

If this is of interest to you we will be pleased to consider an offer for its purchase.

We look forward to hearing from you and please do not hesitate to contact us if you should need any further information.”

At the time Go were a rival of easyJet, but later acquired by them. Mr. Rothnie says that this is evidence of bad faith.

7. Much of Mr. Rothnie’s second Witness Statement consists of submissions; likewise the Easypack’s first Declaration, by Ms. Helen Thomas-Peter, their trade mark attorney. I will consider both in the course of this decision. However, I note here from Ms. Thomas-Peter’s evidence that ‘Easyair’ refers to air filled ‘pillows’, a light weight packing material (see Exhibit HTP1; and an example of the product in Exhibit HTP3: it appears to be a sort of ‘glorified’ bubble wrap).
8. For Easypack, Mr. Moorhouse, in his ‘late’ Witness Statement (see the preliminary point below) explains the acquisition of the domain name ‘www.easyair.com’. He says it was ‘.. for possible use in connection with the sale and promotion of my Company’s EASYAIR packing machines and packing products.’ He emphasizes the industrial nature of these products and their customers, and encloses a CD-Rom showing their use. The name EASYAIR is clearly employed, but I am not told of the extent of trade under the mark before the relevant date.
9. In Mr. Rothnie’s final (and third) declaration, it is noted that Easypack applied for the domain name ‘easyair.com’ six months after the application date. The rest of his evidence repeats earlier submissions, though Mr. Rothnie does enclose examples of the use of his employer’s marks on various examples of packaging material (Exhibit JR2 to this third Witness Statement).

LAW

10. The relevant sections of the Act are:

“47(2) The registration of a trade mark may be declared invalid on the ground -

(a) that there is an earlier trade mark in relation to which the conditions set out in section 5(1), (2) or (3) obtain, or

(b) .. ,

unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.”

“5(2) A trade mark shall not be registered if because -

(a) ... , or

(b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.

(3) A trade mark which -

(a) is identical with or similar to an earlier trade mark, and

(b) is to be registered for goods or services which are not similar to those for which the earlier trade mark is protected,

shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a Community trade mark, in the European Community) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.

(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented -

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, or

(b)

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark.”

The applicants’ reputation under their marks.

11. There is little doubt that the applicants are well known as a ‘budget’ airline, offering accessible and low cost air travel to its customers. Mr. Rothnie states:

“The growth of easyJet Airline has been dramatic. In the 12 months ending December 1999 easyJet Airline doubled the number of flights it operated. As at 30 September 2000 easyJet Airline operated on 28 routes across Europe. There are usually approximately 600,000 visits to the home page of easyJet Airline a week, and total passenger figures have been 30,000 in 1995, 420,000 in 1996, 1,140,000 in 1997, 1,880,000 in 1998, 3,670,000 in 1999 and 5, 996,000 in 2000. Approximate annual

turnover figures for easyJet Airline goods and services provided under reference to the 'easy' mark for the past three financial years of trading are in excess of £77 million for 1997/1998, £140 million for 1998/1999 and £267 million for 1999/2000."

A NOP poll is referred to, where the recognition rate of 81% 'for the house mark' of the applicants was recorded (see Exhibit JR3; in passing I note that this survey dates from after the relevant date, and I find it almost impossible to read, let alone interpret; nevertheless, it is clear that it refers to the applicants' main activity of airline services). A number of awards are cited (paragraph 19), which apply, largely, to the airline service. Again, many are after the relevant date.

12. Mr. Rothnie's claims that this notoriety is more extensive than just in the EASYJET name for airline services. He states:

"easyGroup (UK) Limited is the investment vehicle for the group of companies and acts as an incubator for Internet start-up 'easy' ventures in new fields.The united business ethos of simplicity, low cost and accessibility of easyJet Airline and its related companies has resulted in the emergence of a well-known brand identity. The 'easy' mark is key to the brand identity. Key features of this are that easyJet Airline and its related companies generally use short trade marks often consisting of two words with the prefix 'easy', combined to form one new word, where the suffix has connotations with the services involved. Moreover, the lettering in the marks generally contains fairly large characters in a rounded form."

13. In my view, this amounts to a claim of a family of marks, based on the EASY prefix. I note the following from a decision of the Appointed Person in the *Infamous Nut Company* (BL 0/411/01):

"35. It is impermissible for section 5(2)(b) collectively to group together several earlier trade marks in the proprietorship of the opponent.

36. Section 5(2)(b) speaks of registration being refused on the basis of an earlier trade mark (as defined by section 6). Thus where the opponent relies on proprietorship of more than one earlier trade mark, the registrability of the applicant's mark must be considered against each of the opponent's earlier trade marks separately (*ENER-CAP Trade Mark* [1999] RPC 362).

37. In some circumstances, it may be possible for the opponent to argue that an element in the earlier trade mark has achieved enhanced distinctiveness in the eyes of the public because it is common to a "family of marks" in the proprietorship and use of the opponent (*AMOR*, Decision no 189/1999 of the Opposition Division, OHIM OJ 2/2000, p. 235). However, that has not been shown by the evidence to exist in the present opposition and cannot, as contended by Mr Walters on behalf of the opponent, be presumed from the state of the register in Classes 29 and 31."

This view was confirmed in the *TORRELONGARES* decision (BL 0/045/02).

14. Mr. Rothnie seeks to show that such exists by referring to other of the applicants' concerns operating under the prefix, and also by the way his employers' marks are used by themselves and others, in particular, use of the 'easy' name. I wish to consider the former first.

15. It appears that the only concerns ‘active’ before the relevant date were easyRentacar and easyEverything, the former being a car rental service, and the latter being an internet cafe service. However, the economic activity associated with these other ‘easy’ businesses adds up to much less than that associated with airline services, certainly before the relevant date. I have compiled the following from Mr. Rothnie’s Statement:

Name	Launched	Turnover under marks before relevant date
easyRentacar	February 2000.	None. Sites in London (opened 20 th March 2000), Glasgow (7 th March 2000) and in Manchester (29 th March 2000) (see Exhibit JR1). There were 65,000 visits to its website between May and December 1999. Some exposure in the press before the relevant date (see page 29 of JR5).
easyEverything	June 1999	June to 31 September 1999 £392,000. 12 months ending 30 September 2000 was £6,704,895. Much of this after the relevant date. Though the website relating to easyEverything received 667,278 visits in the year to 15 May 2000, I am not told of the number before January 2000. There are a number of press references, before the relevant date, describing the setting up of the internet service.

16. These were new ventures, advertised and promoted to specific markets, but without significant trade. I do not believe that this resulted in a widespread recognition of the ‘easy’ name, associated with the applicants, as of the 20th January 2000.
17. Turning, now, to use of the ‘easy’ name, Mr. Rothnie states, of the ‘easy’ brand image:

“This brand identity is used on all advertising and promotional materials, including any corporate documents such as headed paper. There is also extensive promotion via the Internet. In addition, easyJet Airline and related companies promote their services in numerous other ways including, but not limited to, bill board posters on tube stations and London buses, press releases .. press and television advertising.”

Yet the material enclosed at Exhibit JR4 is all after the relevant date, where it is dated at all. Mr. Rothnie also states (paragraph 9):

“The fact that the ‘easy’ prefix is now recognised by the public as denoting the businesses of easyJet Airline and related companies and therefore seen as their trade marks is illustrated by the repeated emphasis in the press to the easy mark and not to the full trading names of the companies. For example, attached and marked ‘JR2’ there are references to easy car hire, easy Group umbrella, easy does it, easy revolution, easyFloat and easyRider to name a few.”

These particular references are after the relevant date, but there are a number which are not. I list the instances I have found as follows:

- 'Easy does it' (Exhibit JR2, page 8; Exhibit JR5 pages 29, 14 and 9);
- 'Easy' *solus* (Exhibit JR5 pages 29, 7 and 10);
- 'Sleep easy' (Exhibit JR5 page 45);
- 'Easy come, easy go' (Exhibit JR5 pages 45, 3 and 22);
- 'Nice and easy does it' (Exhibit JR5 page 1);
- 'easycave' (Exhibit JR5 page 24);
- 'UK nice and easy' (Exhibit JR5 page 30);
- 'Jet away the easy way with easy jet' (Exhibit JR5 page 7);
- 'easy peasy' (Exhibit JR5 page 15); and
- 'nice and easy' (Exhibit JR5 pages 37 and 38).

18. Such plays on words are typical of the press, particularly when a trade mark allows wordplay. It could, of course, be evidence of recognition of a mark amongst consumers, but I struggle to make this inference here. It equally could be taken as evidence of the rather obvious connotation of the word 'easy' which, as I say, the press has focused on. And the examples are few when set in context - Exhibit JR5 contains reference to over 4800 press article titles – the use indicated above occurs in less than 0.4% of them.
19. On the basis of the material I have seen, I cannot agree with Mr. Rothnie that – from the listings in Exhibit JR5 – the ‘..interest in the “easy” group of companies has been relentless’ before January 2000. This may well apply subsequently - and previously to the airline - but I do not see enough in the evidence to conclude more than this. At the hearing, Mr. Roberts argued that easyJet was possessed of the same reputation for diversification as the Virgin group of businesses. On the evidence I have seen I cannot agree.

DECISION

Preliminary Issue

20. This concerned the admission of late evidence by Easypack: a Witness Statement by Mr. Anthony Moorhouse, their Company Secretary. Any risk of conflict over this request rather evaporated when the applicants responded ‘tit-for-tat’ with their own late evidence (the third Rothnie Statement). I was not wholly convinced that any of this material was of significant probative value (at best I think it can be described as ‘mostly harmless’) but, as both parties were content for it to be added to the existing, I allowed it in on this basis. I have summarised the content of these documents under the evidence section above.

The earlier marks: s. 5(2)(b)

21. The applicants have a number of earlier marks, under s. 6(1), for the purposes of s. 5(2)(b). These are listed in the ANNEX. However, these are of varying similarity with the Easypack mark and specify a variety of goods and services which, again, reflect varying similarity with the EASYAIR specification. Mr. Roberts (for easyJet) brought to my attention certain marks –EASYJET, EASYKIOSK, EASYJET SERVICES, EASYEVERYTHING, EASYEXTRAS, EASYJET, THE WEB’S FAVOURITE AIRLINE, EASYTECH, EASYJET

TOURS, EASY.COM, EASYLIFE and EASYCAFE – which were applications (CTMs) when this action was initiated, but had now matured to registration (though not all: CTM application No. 1283647 (EASYJET) appears not to have so progressed).

22. In approaching this section I am mindful of the following decisions of the European Court of Justice (ECJ) on this provision (equivalent to Article 4(1)(b) of Directive 89/104/EEC) in *Sabel BV v Puma AG* [1998] E.T.M.R. 1, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] E.T.M.R. 1, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* [2000] F.S.R. 77 and *Marca Mode CV v Adidas AG* [2000] E.T.M.R. 723. It is clear from these cases that:
- (a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors; *Sabel BV v Puma AG*, paragraph 22;
 - (b) the matter must be judged through the eyes of the average consumer of the goods/services in question; *Sabel BV v. Puma AG*, paragraph 23, who is deemed to be reasonably well informed and reasonably circumspect and observant - but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind; *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V.* paragraph 27;
 - (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v. Puma AG*, paragraph 23;
 - (d) the visual, aural and conceptual similarities of the marks must therefore be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components; *Sabel BV v. Puma AG*, paragraph 23;
 - (e) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and *vice versa*; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 17;
 - (f) there is a greater likelihood of confusion where the earlier trade mark has a highly distinctive character, either *per se* or because of the use that has been made of it; *Sabel BV v. Puma AG*, paragraph 24;
 - (g) mere association, in the sense that the later mark brings the earlier mark to mind, is not sufficient for the purposes of Section 5(2); *Sabel BV v. Puma AG*, paragraph 26;
 - (h) further, the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense; *Marca Mode CV v. Adidas AG*, paragraph 41;
 - (i) but if the association between the marks causes the public to wrongly believe that the respective goods come from the same or economically linked undertakings, there is a likelihood of confusion within the meaning of the section; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 29.

Comparison of goods and services

23. Mr. Roberts cited the case *Harding v. Smilecare Limited* [2002] F.S.R. 37, suggesting that it should be treated with caution in respect of its conclusion about a ‘threshold’ requirement for the similarity of goods. In that case, P. W. Smith Q.C. (Sitting As A Deputy Judge of the High Court) stated:

“... for an action under section 10(2)(b) [equivalent to s. 5(2)(b)] to succeed there is a threshold which has to be crossed namely that the goods or services are identical with or similar to those for which the trade mark is registered.”

24. Rather Mr Roberts suggested that I follow the ‘Balmoral orthodoxy’, which I take to be the ‘single composite question’ cited by the Appointed Person in *Balmoral Trade Mark* [1998] R.P.C. 297 at page 301, that is:

“Are there similarities (in terms of marks and goods) which would combine to create a likelihood of confusion if the “earlier trade mark” and the applied for trade mark, were used concurrently in relation to the goods for which they are respectively registered?”

25. Mr. Roberts extrapolated from this decision and others (e.g. *Canon*) that the consequence of acquired or inherent distinctiveness in the earlier mark was, in effect, to increase the similarity between goods: such marks thus have an augmented penumbra of protection. He added ‘..my submission on the threshold [is] that there is not one’.

26. There is no doubt that Mr. Roberts is right, up to a point. The idea that similarity of goods, as a factor in assessing likelihood of confusion, is an objective question hermetically sealed off from questions of distinctiveness must be wrong; Jacob J resiled from this position (which he arguably approached in *British Sugar Plc v. James Robertson & Sons Ltd* [1996] R.P.C. 281) in the case of *Imperial Tobacco Ltd v Berry Bros & Rudd* (a Judgement of the Patents Court, dated 31st October 2001, CH/2001/APP/641).

27. Nevertheless, I note the following from my own decision in BL O-251-02:

“.. ‘similarity’ of goods is matter of degree: goods are similar on a sliding scale bounded on one hand by those fairly described as ‘identical’, to those at the other end of the scale, which are clearly ‘different’. ... similar goods are all similar, but some are more similar than others. ... it seems clear to me that one might find a greater degree of similarity – and consequent increased risk of confusion - in one set of circumstances, that is, in one case, where one would not do so in another. An example of this is where a mark enjoys greater protection because of its distinctiveness and a likelihood of confusion is found between that mark and another when both are used on certain goods, where it would not arise in the case of a less distinctive mark. In effect, the former mark is ‘capable’ of making the goods at issue ‘more similar’ (see *Canon*, paragraph 17). Of course, there may be other situations where one would find similarity that might not arise elsewhere. It is conceivable that goods placed within a certain context with other goods might be considered similar, where they would not be outside it.

That said, it has been recognised by the ECJ that section 5(2), (Article 4(1)(b) of the Directive) requires that similarity between goods must be established. In particular in *Canon* at paragraph 22 the Court stated:

‘It is however, important to stress that, for the purposes of applying Article 4(1)(b), even where a mark is identical to another with a highly distinctive character, it is still necessary to adduce evidence of similarity between the goods or services covered. In contrast to Article 4(4)(a), which expressly refers to the situation in which the goods or services are not similar, Article 4(1)(b) provides that the likelihood of confusion presupposes that the goods or services covered are identical or similar.’

And there must be, in a particular case, a ‘threshold’ level of ‘similarity’ below which confusion will not occur. Mr. Hobbs Q.C., sitting as the Appointed Person in *Raleigh International* (SRIS 0-253-00) stated:

‘Similarities between marks cannot eliminate differences between goods or services; and similarities between goods or services cannot eliminate differences between marks. So the purpose of the assessment under section 5(2) must be to determine the net effect of the given similarities and differences.’ ”

28. This is the view Mr. Norris adhered too, and I will apply it in what follows.

29. First, a reminder of the specification of goods in the registered mark:

Class 7: Machines for the manufacture of plastics packaging and/or paper packaging; parts and fittings therefore.

Class 16: Plastics materials for wrapping and packaging; paper for wrapping and packaging.

Class 17: Plastics stuffing materials.

30. Taking into account the most favourable combination of similarity in the marks and specifications, Mr. Roberts considered the applicants’ best case to be represented by their EASYJET registration No. 1232909. This is a CTM, registered on 15th September 2002, but applied for on 1st July 1999, thus qualifying it as an earlier mark for the purposes of s. 5(2)(b). This registration specifies the following goods in Class 16: “..wrapping and packaging..”. Mr. Roberts’ contention was that these were the same as the goods in Class 16 and 17, as listed above.

31. Mr. Norris pointed to the evidence showing that Easypack used the mark EASYAIR on a packing product employed in industrial applications – for ‘void fill’ etc. He also contended that Class 17 was the appropriate class for such products, and they were different from those in Class 16.

32. Of course, I must only consider the goods as they are set out in the specifications as listed. Whatever use is claimed may, or may not, reflect the goods as specified, but is, nevertheless, irrelevant to the right registration as granted (see *Origins Natural Resources Inc v Origin Clothing Ltd* [1995] FSR 280. Under s. 5(2)(b) notional and fair use of the respective marks for the goods/services contained within the specifications is assumed. The protection granted

to the opponents is that bounded by the limits of their specification of goods, not by what they may actually be trading in at a given time: the Registrar will compare mark against mark and specification against specification, and that is what I must consider here.

33. Guidance on the approach to be adopted in comparing goods and services can be found in two main authorities. The first is *British Sugar Plc v James Robertson & Sons Ltd (TREAT)* [1996] RPC 281 at page 296. Adapted to the current case the test proposed by Mr. Justice Jacob involved consideration of the following:
- (a) the uses of the respective goods or services;
 - (b) the users of the respective goods or services;
 - (c) the physical nature of the goods or services;
 - (d) the trade channels through which the goods or services reach the market;
 - (f) the extent to which the respective goods or services are competitive.

These factors were referred to in the opinion of the Advocate General in *Canon*; page 127, paragraphs 45 - 48. In its judgment, the ECJ stated at paragraph 23:

“23. In assessing the similarity of the goods or services concerned, as the French and United Kingdom Governments and the Commission have pointed out, all the relevant factors relating to those goods or services themselves should be taken into account. Those factors include, inter alia, their nature, their end users and their method of use and whether they are in competition with each other or are complementary.”

34. A number of other authorities have dealt with the proper approach to the meaning of particular terms. Terms are to be given their ordinary and natural meaning. For example, *Beautimatic International Ltd v Mitchell International Pharmaceuticals Ltd and Another* [2000] FSR 267 puts a more recent gloss on the point:

“I should add that I see no reason to give the word “cosmetics” and “toilet preparations” or any other word found in Schedule 4 to the Trade Mark Regulations 1994 anything other than their natural meaning, subject, of course, to the normal and necessary principle that the words must be construed by reference to their context. In particular, I see no reason to give the words an unnaturally narrow meaning simply because registration under the 1994 Act bestows a monopoly on the proprietor.”

Also from *TREAT* case:

“When it comes to construing a word used in a trade mark specification, one is concerned with how the product is, as a practical matter, regarded for the purposes of trade. After all, a trade mark specification is concerned with use in trade.”

35. Finally, the Registrar is entitled to treat the Class number as relevant to the interpretation of the scope of the specification of goods (*Reliance Water Controls Ltd v Altecnic Ltd* [2002] RPC 34).

36. With these cases in mind, I think I must conclude that the goods in Class 16 are identical. Of course, s. 5(2)(b) includes those goods that are similar as well. Clearly, the goods in Class 7 are not identical to anything appearing in the various of the easyJet specifications. But are they similar? Mr. Rothnie argued that they were:

“Wrapping and packaging materials, and printed matter, would appear to be similar goods to paper for wrapping and packaging, plastics materials for wrapping and packaging, plastic stuffing materials, machines for the manufacture of plastics packaging and/or paper packaging, parts and fittings therefor. In this respect, the plastics materials, paper and plastic stuffing materials all relate to wrapping and packaging material and the machines that make packaging would appear to be similar goods to the goods themselves, due to their purposes and trade channels. As a result, registration of the trade mark applied for should be refused because it relates to a similar mark in respect of similar or identical goods where there is a likelihood of confusion arising.”

37. Other of his submissions on this point are more desperate (see paragraph 2 of his second Witness Statement) and, in his final Witness Statement, Mr. Rothnie provides examples of packing materials used by his employer (Exhibit JR2). (In passing, I do not see that this is evidence of a trade in such products. They all seem to promote the airline activity in some way or another).

38. I am unable to find that the Class 7 goods are similar to those specified with the EASYJET CTM (which represents the applicants’ best case). These are machines that manufacture packing materials. If one applies the *Treat* criteria I do not believe that one can fail to find that they are different. To say they were similar is rather like concluding that cotton clothing is similar to an industrial loom.

39. As for Class 17, I consider the goods in this Class must be different to those in Class 16. I note 8th Edition of the Nice Classification of goods and services (from the WIPO website at <http://www.wipo.org/classifications/en/index.html>) contains the Explanatory Note: “Class 16 includes mainly paper, goods made from that material and office requisites. This Class includes, in particular, paper knives; duplicators; plastic sheets, sacks and bags for wrapping and packaging.”

40. This, in my view, is reflective of wrapping and packing that is typically used to ‘bag’ any number of consumers products on purchase, but also may include ‘stationery’ type packing found in a typical office. Turning to the Class 17 goods, these include (again from the Nice Classification): ‘plastics in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, not of metal’. The corresponding Explanatory Note states:

“Class 17 includes mainly electrical, thermal and acoustic insulating materials and plastics, being for use in manufacture in the form of sheets, blocks and rods. This Class includes, in particular: rubber material for recapping tyres; padding and stuffing materials of rubber or plastics; floating anti-pollution barriers.”

41. It seems to me that these are products of a more industrial nature than those in Class 16. I think I must find that they are different to the products specified in the easyJet EASYJET specification, on application of the *Treat* principles.

Distinctive character

42. This follows from the point I have considered in some detail above. easyJet have a household reputation for budget airline services, as of the relevant date, in their mark EASYJET. But I do not consider that it extended beyond this at that time. In particular, they cannot bring to the ‘Balmoral’ question a ‘family of marks’ status to their use of the prefix ‘easy’, and they did not, as of 20th January 2000, have a ‘Virgin’ type of reputation for diversification.
43. As to the inherent capacity of their mark to distinguish, I regard it as allusive to the nature of the service they provide. The JET suffix is descriptive and the prefix suggests something that is simple, trouble free or straightforward. It is a mark that, *per se*, has more than adequate inherent capacity to distinguish, but is not as strong as a completely fanciful mark, the usual example being KODAK.
44. Of course, the notoriety I have identified elevates the distinctive character of the EASYJET mark and I approach the comparison under s. 5(2)(b) with this in mind. But it is a fame associated with airline services: it is of a very specific nature. In view of this, I do not think I can conclude that that any of the other goods, for which the easyJet marks are earlier marks for the purposes of s. 5(2), are brought within the description of similar by their reputation.

Comparison of Marks

45. The two marks are:

EASYJET

Easyair

46. I take the average consumer to be a member of the public. I must follow point (d) on page 8 above, assessing the visual, aural and conceptual similarities of the marks by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components (*Sabel BV v. Puma AG*, paragraph 23).
47. First, it seems to me that Mr. Roberts was right to argue that a conceptual similarity existed between the marks. As Mr. Rothnie states in his evidence:

“I believe it is inevitable that members of the UK public would naturally assume the user of Easyair was part of or associated with the business of easyJet Airline and related companies. In particular, it consists of a combination of a short mark prefixed with Easy, ending in Air, where this latter word has connotations with our business, due to its reputation in relation to all matters concerning the air and specifically air travel. In addition, our company easyJet Airline company Ltd could readily be confused with Easyair, since Jet is fairly common in airline names, a key element in the mark is Easy, and several airline names consist of a prefix together with the suffix AIR.”
48. Further, the use of the prefix conveys the same notion in both marks: that of something simple and straightforward.

49. Visually, the differences in the marks focus on the use of AIR and JET. I have already mentioned the strong conceptual difference between these two words. As for other divergences, I take no account of the unexceptional stylisation in Easypack's mark, as easyJet's registration does not exclude it.
50. The aural differences reflect the visual. Of course, I must keep in mind the fact that the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v. Puma AG*, paragraph 23 (point (c) on page 8).
51. Taking account of all the surrounding circumstances, which includes the acquired distinctiveness of the applicants' mark, I think I can conclude that confusion is likely for the goods in Class 16. To this extent, easyJet have succeeded in their application. However, I do not believe they are able to enlarge this success to other of the products in EASYAIR specification, for the reasons I have given above, under the similarity of goods section.

Earlier marks, dissimilar goods: s. 5(3)

52. I note the following from the *RARE* trade mark case (BL SRIS 0-470-01), Alan James stated:

“51. The purpose and scope of Section 5(3) of the Act has been considered in a number of cases including *General Motors Corp. v Yplon SA (Chevy)* 1999 ETMR 122 and 2000 RPC 572, *Premier Brands UK Limited v Typhoon Europe Limited* 2000 FSR 767 (*Typhoon*), *Daimler Chrysler v Alavi (Merc)* [2001] RPC 42 and *C.A. Sheimer (M) Sdn Bh's TM Application (Visa)* 2000 RPC 484.

52. The points that come out of these cases are as follows:

- a) 'Reputation' for the purposes of Section 5(3) means that the earlier trade mark is known by a significant part of the public concerned by the products or services covered by that trade mark (paragraph 26 of the ECJ's judgment in *Chevy*);
- b) Protection is only available where the respective goods or services are not similar (paragraph 29 of the Advocate General's opinion in *Chevy*);
- c) The provision is not intended to give marks 'an unduly extensive protection' - there must be actual detriment or unfair advantage (not merely risks) which must be substantiated to the satisfaction of the national court or tribunal (paragraph 43 of the Advocate General's Opinion in *Chevy* and paragraph 88 of Pumfrey J's judgment in the *Merc* case);
- d) The provision is not aimed at every sign whose use may stimulate the relevant public to recall a trade mark which enjoys a reputation with them (per Neuberger J in the *Typhoon* case);
- e) The stronger the earlier mark's distinctive character and reputation the easier it will be to accept that detriment has been caused to it (paragraph 30 of the ECJ's judgment in the *Chevy* case);

f) Confusion as to the trade source of the goods or services offered for sale under the later mark is not a necessary condition before there can be detriment, but is one form of detriment (paragraph 88 of Pumfrey J's judgment in the *Merc* case);

g) Detriment can take the form of either making the earlier mark less attractive (tarnishing) or less distinctive - blurring (paragraph 88 of Pumfrey J's judgment in the *Merc* case);

h) Unfair advantage can take the form of feeding on the fame of the earlier mark in order to substantially increase the marketability of the goods or services offered under the later trade mark (per G Hobbs QC in *Visa* at page 505, lines 10-17)."

53. I accept that, as of the relevant date, easyJet possessed a reputation that such that it is 'known by a significant part of the public concerned by the products or services which it covers' (*General Motors Corporation v Yplon SA* [2000] RPC 572). This means that it qualifies for the first requirement of s. 5(3). I have also found that certain of the goods at issue (other than those in Class 16) - those in Class 7 and 17 are not similar to easyJet's goods and services. And I have found the marks at issue to be similar (again, I am considering easyJet's best case: EASYJET and EASYAIR; I do not see that other of their registrations helps them here). This section thus applies. However, the case law also requires, before this ground can succeed, actual detriment or unfair advantage (not merely risk thereof) which must be demonstrated to my satisfaction.
54. Confusion is not required by this section (see point (f)). And it appears that association is not enough (point (d)). But for the detriment or unfair advantage to operate '...there must be some sort of connection formed (I avoid the word association) between the sign used by the defendant and the mark and its associated reputation' (paragraph 86 in *Merc*).
55. I do not believe that I can find that this is the case here. I do not see that the nature of easyJet's reputation in its mark – for airline services – is enough to enable Easypack to 'ride on its back' in making sales of industrial packing materials, or to cause detriment to its notoriety. This ground must fail.

The earlier right: s. 5(4)(a)

56. Mr. Roberts referred to the guidance given by the Appointed Person in the *Wild Child Trade Mark* [1998] RPC 455, at 459 to 461:

"The question raised by the grounds of opposition is whether normal and fair use of the designation WILD CHILD for the purpose of distinguishing the goods of interest to the applicant from those of other undertakings (see section 1(1) of the Act) was liable to be prevented at the date of the application for registration (see Article 4(4)(b) of the Directive and section 40 of the Act) by enforcement of rights which the opponent could then have asserted against the applicant in accordance with the law of passing off.

A helpful summary of the elements of an action for passing off can be found in *Halsbury's Laws of England* (4th Edition) Vol. 48 (1995 reissue) at paragraph 165. The guidance given with reference to the speeches in the House of Lords in *Reckitt & Colman Products Ltd v Borden Inc.* [1990] R.P.C. 341 and *Erven Warnink BV v J Townend & Sons (Hull) Ltd* [1979] A.C. 731 is (with footnotes omitted) as follows:

“The necessary elements of the action for passing off have been restated by the House of Lords as being three in number:

- ‘(1) that the plaintiff’s goods or services have acquired a goodwill or reputation in the market and are known by some distinguishing feature;
- (2) that there is a misrepresentation by the defendant (whether or not intentional) leading or likely to lead the public to believe that goods or services offered by the defendant are goods or services of the plaintiff; and
- (3) that the plaintiff has suffered or is likely to suffer damage as a result of the erroneous belief engendered by the defendant’s misrepresentation.

The restatement of the elements of passing off in the form of this classical trinity has been preferred as providing greater assistance in analysis and decision than the formulation of the elements of the action previously expressed by the House. This latest statement, like the House’s previous statement, should not, however, be treated as akin to a statutory definition or as if the words used by the House constitute an exhaustive, literal definition of passing off, and in particular should not be used to exclude from the ambit of the tort recognised forms of the action for passing off which were not under consideration on the facts before the House.’

Further guidance is given in paragraphs 184 to 188 of the same volume with regard to establishing the likelihood of deception or confusion. In paragraph 184 it is noted (with footnotes omitted) that:

‘To establish a likelihood of deception or confusion in an action for passing off where there has been no direct misrepresentation generally requires the presence of two factual elements:

- (1) that a name, mark or other distinctive feature used by the plaintiff has acquired a reputation among a relevant class of persons; and
- (2) that members of that class will mistakenly infer from the defendant’s use of a name, mark or other feature which is the same or sufficiently similar that the defendant’s goods or business are from the same source or are connected.

While it is helpful to think of these two factual elements as successive hurdles which the plaintiff must surmount, consideration of these two aspects cannot be completely separated from each other, as whether deception or confusion is likely is ultimately a single question of fact.’ ”

57. Thus, the question to be asked is whether easyJet had gained a goodwill under the name EASYJET as of the relevant date, such that use of EASYAIR by EasyPack, on all or any of the goods in their specification would, on the balance of probabilities, likely to lead to confusion with the easyJet mark, and damage to their trade?

58. At the risk of tedious repetition, there is no doubt about easyJet's goodwill under the name EASYJET, for airline services, as of the relevant date. However, as I have also stated, I do not believe that this goodwill extended to use of the prefix 'EASY' at this time, despite some evidence of limited expansion of the applicants' activities into businesses just before January 2000 (by means of the EASYEVERYTHING and EASYRENTACAR marks/businesses). Even if some goodwill could have been argued to have been generated by these new ventures, it is my view that easyJet's existing goodwill at that time would have tended to occlude such development, if measured against the knowledge and appreciation the majority of consumers had of easyJet's usual trade.
59. The nature of the reputation possessed by easyJet is bound to have an effect on the risk of misrepresentation under the doctrine of passing off. Though a 'common field of activity' (*McCulloch v May* [1947] 65 RPC 58) is no longer a requirement in passing off, clearly the similarity of the trade(s) in question is a factor which must be considered (*Annabel's (Berkeley Square) Ltd. v Schock* [1972] RPC 838) when determining confusion in respect of passing off. - Consumers are more likely to assume a connection or be confused where trades are closely related or the same.
60. Against this, there is the case of *Lego System Aktielskab and Another v Lego M. Lemelstrich Limited* (FSR 1983 155), where the plaintiffs were manufacturers of the famous building bricks and succeeded in a passing-off action against an old established Israeli company which manufactured irrigation equipment, including garden sprays and sprinklers constructed wholly or substantially of brightly coloured plastic material. But here there was at least a tenuous link between the products insofar as both sets of goods were made from similar materials. There is no such contention here between the goods in Classes 7 and 17, and even 16. Further, there was substantial evidence of likely confusion in that case. No such exists here.
61. In short, I do not believe that easyJet can succeed under this ground, and it fails.

Conclusion

62. The application has succeeded in part. Under s. 47 I consider registration of trade mark N^o 2219860 invalid as it applies to Easypack's goods in Class 16: 'Plastics materials for wrapping and packaging; paper for wrapping and packaging' on the grounds that it was registered in breach of s. 5(2)(b). Accordingly I direct that registration N^o 2219860 be declared invalid to this extent, be removed from the Register and, in accordance with Section 47(6), shall be deemed never to have been made, at it applies to Class 16 products.
63. I regard the result as a 'score-draw'. Mr. Norris considered that Easypack should receive some recognition of easyJet's only partial success. I am not convinced, and make no costs award in this case.

Dated this 16th Day of January 2003.

Dr W J Trott
Principal Hearing Officer
For the Registrar

ANNEX

UK REGISTRATIONS ARE LISTED IN THE STATEMENT OF GROUNDS.

Mark	Number	Date of application	Goods/services
EASYJET	2016785	05.04.1995	<p>Class 16: Printed matter and publications; books, manuals, pamphlets, newsletters, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; identity cards; labels and tags; posters, postcards, calendars, diaries, photographs, gift cards and greetings cards; teaching and instructional materials.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; arranging of transportation of goods, passengers and travellers by land and sea; airline and shipping services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; ambulance services; rental and hire of vehicles, boats and aircraft; travel agency and tourist office services; consultancy and advice relating to all the aforesaid services.</p> <p>Class 42: Temporary accommodation; catering, hotel, restaurant, cafe and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services.</p>
easyTrak/ EASYTRAK (series of two)	2168662	05.06.1998	<p>Class 16: Printed matter and publications; books, manuals, pamphlets, newsletters, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; identity cards; labels and tags; posters, postcards, calendars, diaries, photographs, gift cards and greetings cards; teaching and instructional materials; all relating to travel.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; arranging of transportation of goods, passengers and travellers by land and sea; airline and shipping services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; ambulance services; rental and hire of vehicles, boats and aircraft; travel agency and tourist office services; consultancy and advice relating to all the aforesaid services.</p> <p>Class 42: Temporary accommodation; catering, hotel, restaurant, café and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services.</p>

<p>easyWeb/ EASYWEB (series of two)</p>	<p>2168668</p>	<p>05.06.1998</p>	<p>Class 16: Printed matter and publications; books, manuals, pamphlets, newsletters, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; identity cards; labels and tags; posters, postcards, calendars, diaries, photographs, gift cards and greetings cards; teaching and instructional materials; all relating to travel.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; arranging of transportation of goods, passengers and travellers by land and sea; airline and shipping services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; ambulance services; rental and hire of vehicles, boats and aircraft; travel agency and tourist office services; consultancy and advice relating to all the aforesaid services.</p> <p>Class 42: Temporary accommodation; catering, hotel, restaurant, café and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services.</p>
<p>easyExtras/ EASYEXTRAS (series of two)</p>	<p>2168672</p>	<p>01.06.1999</p>	<p>Class 16: Printed matter and publications; books, manuals, pamphlets, newsletters, albums, newspapers, magazines and periodicals; stationery; tickets, vouchers, coupons and travel documents; identity cards; labels and tags; posters, postcards, calendars, diaries, photographs, gift cards and greetings cards; teaching and instructional materials; travel documents folders; travel guide books; travellers cheques.</p> <p>Class 18: Travel luggage, travel bags; travel garment covers; travellers bags made from leather or imitation leather, travelling sacks and handbags.</p> <p>Class 36: Insurance services.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; arranging of transportation of goods, passengers and travellers by land and sea; bus transport services, car transport services, coach services; airline and shipping services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; ambulance services; rental and hire of vehicles, boats and aircraft; travel agency and tourist office services; consultancy and advice relating to all the aforesaid services.</p> <p>Class 42: Temporary accommodation; catering, hotel, restaurant, café and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services.</p>

easyKiosk/ easy kiosk/ EASY KIOSK/ EASYKIOSK (series of four)	2198933	01.06.1999	<p>Class 16: Printed matter, books, publications, brochures, postcards, menus, catalogues, diaries, promotional and advertising material, wrapping and packaging material, stationery, writing instruments, calendars, posters, photographs, greetings cards, bags, badges, instructional and teaching materials, playing cards, labels, magazines, newsletters, tickets, leaflets, writing paper, goods made of cardboard, manuals, pamphlets, albums, newspapers, periodicals, vouchers, coupons and travel documents, identity cards, tags, gift cards, travel document folders, travel guide books, travellers cheques.</p> <p>Class 42: Catering for the provision of food and drink; bar, catering, café and restaurant services; in-flight and airport catering services.</p>
EASYJET SERVICES	2219661	18.01.2000	<p>Class 16: United Kingdom registration no in respect of: Printed matter and publications; books, manuals, pamphlets, newsletters, brochures, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; identity cards; labels and tags; posters, postcards, stationery, writing instruments, wrapping materials, calendars, diaries, photographs, gift cards and greetings cards; teaching and instructional materials; promotional and advertising material; signs of paper or cardboard.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land and sea; airline and shipping services; baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, holidays, business travel, tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft; aircraft parking services; travel agency and tourist office services; advisory and information services relating to the aforesaid services; baggage check-in services, airline booking services, air traffic control services, aircraft handling services.</p> <p>Class 42: Temporary accommodation; catering, hotel, restaurant, café and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services; security services; airport security services; airline passenger security screening services.</p>
EASYBUS	2112956	15.10.1996	<p>Transportation of goods, passengers and travellers by land; arranging of transportation of goods, passengers and travellers by land; coach services; arranging, operating and providing facilities for tours, excursions and vacations; travel agency and tourist office services; consultancy</p>
EASYEVERY- THING (stylised)	2202916	13.07.1999	<p>Class 42: Restaurants and bar services; catering services; design of computer software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; hosting, creating and maintaining web sites for others; leasing access time to a computer data base.</p>
EASYTRAIN	2112957	15.10.1996	<p>Class 39: Transportation of goods, passengers and travellers by land; arranging of transportation of goods, passengers and travellers by land; arranging, operating and providing facilities for tours, excursions and vacations; travel agency and tourist office services; consultancy and advice relating to all the aforesaid Services.</p>

EASY EVERTHING	2182641	20.11.1998	Class 42: Restaurant and bar services; catering services; design of computer software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; hosting, creating and maintaining web sites for others; leasing access time to a computer data base.
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COMMUNITY TRADE MARK REGISTRATIONS

EASY EVERTHING (Stylised)	1243948	13.07.1999	<p>Class 9: Computer software; computer hardware; pre-recorded CD Roms and other disk carriers; sunglasses.</p> <p>Class 3: Business information services; on-line processing of mail Orders.</p> <p>Class 38: Provision of access to information on-line from the Internet; providing access to a wide range of general interest information via computer networks; providing on-line access to news, weather, sports, current events and reference materials; computer bulletin and message boards in fields of general interest; linking to web sites of others; providing multiple-user access to computer networks for the transfer and dissemination of a wide range of information.</p> <p>Class 41: On-line contests and sweepstakes.</p> <p>Class 42: Restaurant and bar services; catering services; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; creating and maintaining web-sites; hosting the web sites of others; consulting and technical assistance in the fields of designing, creating, hosting, maintaining, operating, managing, advertising, and marketing of on-line commerce web sites; provision of access to information on-line from a computer database; technical consultancy and advising in the establishment of on-line retail services; providing on-line facilities for real-time interaction with other computer users concerning topics of general interest and playing games; on-line directory services to help locate people, places, organisations, phone numbers, home pages, and electronic mail address; computer services, namely, creating indexes of information, sites, and other resources available on computer networks; searching and retrieving information on computer networks; leasing access time to a computer database (other than by Internet service providers).</p>
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EASYEXTRAS	848424	05.06.1999	<p>Class 16: Printed matter and publications; books, manuals, pamphlets, newsletters, albums, newspapers, magazines and periodicals; stationery; tickets, vouchers, coupons and travel documents; identity cards; labels and tags; posters, postcards, calendars, diaries, photographs, gift cards and greetings cards; teaching and instructional materials; travel documents folders; travel guide books; travellers cheques.</p> <p>Class 18: Travel luggage, travel bags; travel garment covers; travellers bags made from leather or imitation leather, travelling sacks and handbags.</p> <p>Class 36: Insurance services.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; arranging of transportation of goods, passengers and travellers by land and sea; bus transport services; car transport services; coach services; airline and shipping services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; ambulance services; rental and hire of vehicles, boats and aircraft; travel agency and tourist office services; consultancy and advice relating to all the aforesaid services.</p> <p>Class 42: Temporary accommodation; catering, hotel, restaurant, café and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services.</p>
EASYJET THE WEB'S FAVOURITE AIRLINE	11325696	29.03.1996	<p>Class 39: Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land; airline services; baggage handling services; cargo handling and freight services; operating and providing facilities for tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft; aircraft parking services; travel agency and tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, including information services provided on-line from a computer database or the internet.</p> <p>Class 41: Information relating to entertainment and education, provided on-line from a computer database or the Internet; entertainment services provided on-line from a computer database or the Internet; educational information provided on-line from a computer database or the Internet.</p>

EASYTECH	1128743	29.03.1999	<p>Vehicles; apparatus for locomotion by land, air or water; aircraft; parts and fittings for the aforesaid goods included in class 12.</p> <p>class 37: Aircraft repair and maintenance services, aircraft cleaning services, aircraft washing services.</p> <p>class 39: Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land; airline services; baggage handling services; cargo handling and freight services; operating and providing facilities for tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft; aircraft fuelling services, aircraft parking services, travel agency and tourist office services; advisory and information services relating to the aforesaid services.</p>
EASYJET TOURS	1383157	08.11.1999	<p>Class 16: Printed matter and publications; books, manuals, pamphlets, newsletters, brochures, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; identity cards; labels and tags; posters, postcards, stationery, writing instruments, wrapping materials, calendars, diaries, photographs, gift cards and greetings cards; teaching and instructional materials.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land and sea; airline and shipping services; baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, holidays, business travel, tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft; aircraft parking services, travel agency and tourist office services; advisory and information services relating to the aforesaid services; including the provision of such services by means of the Internet or a computer database.</p> <p>Class 42: Temporary accommodation; catering, hotel, restaurant, café and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services; including the provision of such services as well as information and advice relating thereto by means of the Internet or a computer database.</p>

EASY.COM	1343300	13.06.2000	<p>Class 16: Printed matter, books, publications, brochures, postcards, menus, catalogues, diaries, promotional and advertising material, wrapping and packaging material, stationery, writing instruments, calendars, posters, photographs, greeting cards, bags, badges, instructional and teaching materials, playing cards, labels, magazines, newsletters, tickets, leaflets, writing paper, paper, goods made of cardboard, manuals, pamphlets, albums, newspapers, periodicals, vouchers, coupons and travel documents, identity cards, tags, gift cards, travel document folders, travel guide books, travellers cheques.</p> <p>Class 35: Advertising; business management; business administration; office functions; publicity, promotional services, import-export agency services, business information services, organising exhibitions for commercial or advertising purposes.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land; airline services; baggage handling services; cargo handling and freight services; operating and providing facilities for tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft; aircraft fuelling services, aircraft parking services, travel agency and tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, including information services provided on-line from a computer database or the Internet.</p>
EASYLIFE	1343359	13.06.2000	<p>Class 16: Printed matter, books, publications, brochures, postcards, menus, catalogues, diaries, promotional and advertising material, wrapping and packaging material, stationery, writing instruments, calendars, posters, photographs, greeting cards, bags, badges, instructional and teaching materials, playing cards, labels, magazines, newsletters, tickets, leaflets, writing paper, paper, goods made of cardboard, manuals, pamphlets, albums, newspapers, periodicals, vouchers, coupons and travel documents, identity cards, tags, gift cards, travel document folders, travel guide books, travellers cheques.</p> <p>Class 35: Advertising; business management; business administration; office functions; publicity, promotional services, import-export agency services, business information services, organising exhibitions for commercial or advertising purposes.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land; airline services; baggage handling services; cargo handling and freight services; operating and providing facilities for tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft; aircraft fuelling services, aircraft parking services, travel agency and tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, including information services provided on-line from a computer database or the Internet.</p>

EASYCAFE	931790	16.09.1998	<p>Class 29: Meat, fish, poultry and game; meat extracts; preserved, dried and cooked fruits and vegetables; jellies; jams, fruit sauces; eggs, milk and milk products; edible oils and fats; prepared meals.</p> <p>Class 30: Coffee; tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; flour and preparations made from cereals; bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice; prepared meals.</p> <p>Class 32: Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.</p> <p>Class 33: Alcoholic beverages (except beer).</p> <p>Class 35: Business information services.</p> <p>Class 38: Telecommunication services.</p> <p>Class 42: Restaurant and bar services; catering services; design of computer software; provision of access to computers and the internet; internet services; provision of on-line services.</p>
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EASYJET	1232909	01.07.1999	<p>Class 3: Preparations and substances for use in the care and appearance of the hair, scalp, lips, face, skin, teeth, nails and eyes; cosmetics; non-medicated toilet preparations; perfumes, fragrances, colognes and scents; soaps and cleaning preparations; shampoos, conditioners, moisturisers and rinses; tooth cleaning preparations; depilatory preparations; sun-screening and tanning preparations; anti-perspirants deodorisers and deodorants; cotton wool; essential oils; preparations and substances for use in massage and aromatherapy.</p> <p>Class 9: Electric, electronic, communications, photographic, measuring, signalling, checking, scientific, optical, nautical, life-saving and surveying apparatus and instruments; computer software, hardware and firmware; computer games software; apparatus, instruments and media for recording, reproducing, carrying, storing, processing, manipulating, transmitting, broadcasting and retrieving publications, text, signals, software, information, data, code, sounds, and images; audio and video recordings; audio recordings, video recordings, music, sounds images, text, publications, signals, software, information, data and code provided via telecommunications networks, by online delivery and by way of the Internet and world wide web; sound and video recordings; sound and video recording and playback machines; coin freed apparatus; arcade games; televisions and television game apparatus and instruments; photographic and cinematographic films prepared for exhibition; photographic transparencies; non-printed publications; educational and teaching apparatus and instruments; electronic, magnetic and optical identity and membership cards; sunglasses and sunvisors; protective clothing and headgear; parts and fittings for all the aforesaid goods.</p> <p>Class 16: Printed matter and publications; wrapping and packaging; books, manuals, pamphlets, newsletters, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; identity cards; labels and tags; posters, postcards, calendars, diaries, photographs, gift cards and greeting cards; teaching and instructional materials.</p> <p>Class 18: Leather and imitations of leather; goods made of leather or imitations of leather; skins and hides; trunks bags and travelling bags; purses, wallets, pouches and handbags; luggage; sports bags; bike bags; backpacks; umbrellas and parasols; harness and saddlery; parts and fittings for all the aforesaid goods.</p> <p>Class 25: Clothing; headgear; footwear.</p> <p>Classes 29 and 30: Prepared meals; snacks and snack foods.</p> <p>Class 32: Mineral and aerated waters; beers; non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.</p> <p>Class 33: Alcoholic drinks (except beer); wines, spirits, liqueurs and cocktails.</p>
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			<p>Class 34: Cigarettes, cigars, snuff, tobacco, tobacco products, smokers' articles, lighters, matches.</p> <p>Class 38: Provision of access to the Internet; Internet services.</p> <p>Class 39: Transportation and storage; transportation of goods, passengers and travellers by land, sea and air; airline and shipping services; cargo and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; ambulance services; rental and hire of vehicles, boats and aircraft; travel agency and tourism services.</p> <p>Class 41: Rental of electric and electronic goods, clothing, toys, games and playthings.</p> <p>Class 42: Temporary accommodation; provision of food and drink; catering; hotel, restaurant, cafe and bar services; hotel management and reservation services; non-business professional consultancy; providing facilities for exhibitions and conferences; meteorological information services; hairdressing; grooming and beauty salon services; physical, mental and emotional health-care and well-being services; counselling; nursery, kindergarten and crèche; services consultancy, advice, assistance, analysis, design, evaluation and programming services relating to computer software, firmware, hardware and information technology; provision of access to computers; on-line services; consultancy and advice relating to the evaluation, choosing and implementation of computer software, firmware, hardware, information technology and of data-processing systems; rental and licensing of computer software, firmware and hardware; provision of information relating to technical matters, legal matters, information technology, and intellectual property, including that provided via telecommunications networks, by online delivery and by way of the Internet and the World Wide Web; consultancy and advice relating to travel services.</p>
easyKiosk/ EASYKIOSK	1196138	01.06.1999	<p>Class 42: Printed matter, books, publications, brochures, postcards, menus, catalogues, diaries, promotional and advertising material, wrapping and packaging material, stationery, writing instruments, calendars, posters, photographs, greetings cards, bags, badges, instructional and teaching materials, playing cards, labels, magazines, newsletters, tickets, leaflets, writing paper, goods made of cardboard, manuals, pamphlets, albums, newspapers, periodicals, vouchers, coupons and travel documents, identity cards, tags, gift cards, travel document folders, travel guide books, travellers cheques - class 16 Catering for the provision of food and drink; bar, catering, café and restaurant services; in-flight and airport catering services.</p>

EASYJET SERVICES	1472273	19.01.1999	<p>Class 16: Printed matter and publications; books, manuals, pamphlets, newsletters, brochures, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; identity cards; labels; posters, postcards, stationery, writing instruments, wrapping materials, calendars, diaries, photographs, gift cards and greetings cards; instructional and teaching material; promotional and advertising materials; signboards of paper or cardboard.</p> <p>Class 39: Transportation of goods, passengers and travellers by air; registry services; arranging transportation of goods, passengers and travellers by road and by sea: transport services, airline and forwarding services; baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, holidays, business travel, tours, excursions and vacations; aircraft chartering; leasing of aircraft; aircraft fuelling services, aircraft parking services, travel agency and tourist office services; information and advisory services relating to all the aforesaid services; registration of luggage, flight reservation services, air traffic control services, aircraft handling services, excluding the transportation of letters and parcels.</p> <p>Class 42: Temporary accommodation; catering, hotel, restaurant, café and bar services; reservation services for hotel accommodation; providing facilities for exhibitions; weather information services; hairdressing, grooming and beauty salon services; security services; airport security services; airline passenger security screening services.</p>
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