

**O-313-20**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF AN INTERNATIONAL REGISTRATION DESIGNATING THE  
UNITED KINGDOM NO. 1405654  
BY GOLDZWEIG BERLIN GMBH  
TO REGISTER:**



**AS A TRADE MARK IN CLASSES: 5, 8, 29, 30, 39 & 44**

**AND**

**IN THE MATTER OF OPPOSITION THERETO UNDER NO. 415065 BY  
EASYGROUP LIMITED**

## **BACKGROUND & PLEADINGS**

1. On 24 October 2017 and claiming an International Convention priority date of 24 April 2017 from an earlier filing in Germany, Goldzweig Berlin GmbH (“the applicant”) filed an International Registration and designated the United Kingdom. The trade mark for which protection was sought is shown on the cover page of this decision which, under the heading “Colours claimed”, includes the following “The mark contains the colours red and white”. Protection is sought for goods and services in classes 5, 8, 29, 30, 39 and 44 (shown in Annex A to this decision). The application was published for opposition purposes on 12 October 2018.

2. On 11 January 2019, the application was opposed in full by easyGroup Limited (“the opponent”). Although originally based upon sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”), as the opponent elected not to file any evidence, the proceedings continued on the basis of section 5(2)(b) of the Act alone. The opponent relies on the trade marks and goods/services shown in the European Union Trade Mark (“EUTM”) registrations shown in Annex B to this decision.

3. In relation to trade marks nos. 1-5 shown in the Annex to this decision, in its Notice of opposition, the opponent states:

“The marks are conceptually similar. They share the identical prefix "easy", and they are conjoined to descriptive words which relate to food and the act of eating. Conceptually, they are so close that consumers would assume a link. There is identity and similarity between many of the respective goods and services, with the result that there is a likelihood of confusion within the meaning of Section 5(2)(b).”

4. In relation to trade mark no. 6 shown in the Annex to this decision, in its Notice of opposition, the opponent states:

“The marks share the identical prefix “easy”. They also share a second word element that is allusive of a quality of the goods and services in question. The Opponent's mark enjoys an elevated degree of distinctive character through the use made of it, which serves, to increase the likelihood of confusion, in view of the identity and similarity of many of the goods and services.”

5. The applicant filed a counterstatement, subsequently amended, in which it denied there is a likelihood of confusion. In its original counterstatement (a copy of which was sent to the opponent by the tribunal on 11 April 2019), inter alia, the applicant stated:

“It is also pointed out that the word “easy” does not have a distinctive position to which the opposition can appeal. There are many other brands of other holders that include the descriptive word “easy.”

6. In its amended counterstatement, the applicant stated, albeit in relation to the opposition based upon Section 5(3) of the Act:

“...In addition, the opposition's marks are characterized by the fact that they are all written together. On the other hand, the applicant's mark is currently being written apart and also has a completely different spelling. Against this background, it is clear to everyone that the applicant's trade mark has no connection with the opponent's trade marks...”

7. In these proceedings, the opponent is represented by Kilburn & Strode LLP and the applicant by Scheuermann Westerhoff Strittmeister mdB. Although neither party filed evidence or requested a hearing, the opponent elected to file written submissions in lieu of attendance.

## DECISION

8. The opposition is based upon section 5(2)(b) of the Act which reads as follows:

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

(a)...

(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.”

9. All of the trade marks upon which the opponent is relying qualify as earlier trade marks under the provisions of section 6 of the Act. Given the interplay between the dates on which the opponent's trade marks were entered in the register and the publication date of the trade mark being opposed, the earlier trade marks are not subject to the proof of use provisions contained in section 6A of the Act. As a consequence, the opponent can rely upon all the goods and services claimed without having to demonstrate it has made genuine use of them.

### Case law

10. The following principles are gleaned from the decisions of the courts of the European Union in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v.*

*Thomson Multimedia Sales Germany & Austria GmbH, Case C-120/04, Shaker di L. Laudato & C. Sas v OHIM, Case C-334/05P and Bimbo SA v OHIM, Case C-591/12P.*

The principles:

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, 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, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings the earlier mark to mind, is not sufficient;

(j) 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;

(k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or

### **My approach to the comparison**

11. In its written submissions, the opponent states:

“In the amended counterstatement, no denial was advanced by the applicant as to the identity or similarity of the Opponent's goods and services and the opposed goods and services. We are therefore left to assume that the Applicant accepts the identity/similarity of the goods and services. For the reasons of procedural economy which the TM8 and counterstatement is intended to promote, we are therefore not setting out in detail the identity and similarity of the goods and services and assuming that they are identical/similar as alleged in the Notice of Opposition...”

12. I agree that in its counterstatement the applicant makes no comment on the opponent's claim that "many" of the competing goods and services are identical or similar. However, the use of the word "many" by the opponent clearly indicates that in its view that does not apply to all of the goods and services for which registration is being sought. That being the case, ordinarily it would have been necessary for me to conduct a full comparison. However, in the interests of procedural economy, I intend to proceed on the basis most favourable to the opponent i.e. that all of the goods and services for which registration is being sought are identical to its own goods and services. If the opponent does not succeed on this basis, it will be in no better position should the applicant's goods and services be found to be only similar to the goods and services upon which it relies or, given its use of the word "many", not similar at all.

### **The average consumer and the nature of the purchasing act**

13. As the case law above indicates, it is necessary for me to determine who the average consumer is for the goods and services at issue. I must then determine the manner in which these goods and services are likely to be selected by the average consumer in the course of trade. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J. described the average consumer in these terms:

"60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words "average" denotes that the person is typical. The term "average" does not denote some form of numerical mean, mode or median."

14. The average consumer of the goods and services for which registration is being sought is a member of the general public or a business user. Such goods and services are most likely to be self-selected from bricks and mortar outlets or their on-line equivalents. While that strongly suggests that visual considerations will dominate the selection process, aural considerations in the form of oral requests to sales assistants and word-of-mouth recommendations must not be discounted. As the degree of care the average consumer will display when selecting the goods and services at issue is likely to vary, I shall return to this point when I consider the likelihood of confusion.



### **Comparison of trade marks**

15. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the trade marks must be assessed by reference to the overall impressions created by them, bearing in mind their distinctive and dominant components. The Court of Justice of the European Union (“CJEU”) stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“.....it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

16. It would be wrong, therefore, artificially to dissect the trade marks, although it is necessary to take into account their distinctive and dominant components and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions they create. The trade marks to be compared are as follows:



Opponent's trade marks	Applicant's trade mark
<p>(1) EASYCAFÉ</p> <p>(2) EASYESPRESSO</p> <p>(3) EASYCOFFEE</p> <p>(4) EASYPIZZA</p> <p>(5)   </p> <p>(6) EASYJET</p>	

17. The opponent relies on the six trade marks shown above. Although trade marks nos. 1-4 and trade mark no. 6 are presented as one word in upper case letters, as all of the trade marks comprise a combination of two words both of which will be very well known to the average consumer, I have no doubt that they will immediately recognise that they consist of the word “EASY” conjoined to the words “CAFÉ”, “ESPRESSO”, “COFFEE”, “PIZZA” and “JET”, respectively. The word “EASY” can, as collinsdictionary.com explains, be used in, inter alia, the following manner: “If a job or action is easy, you can do it without difficulty or effort, because it is not complicated and causes no problems”. I have no doubt that the average consumer will be very familiar with that definition. The overall impression the opponent’s trade marks convey and their distinctiveness lie in the combinations of words of which they comprise.

18. The opponent's trade mark no. 5 is somewhat different, as it consists of an orange rectangle upon which there appears in white the words "easy" presented in lower case conjoined to the word "Foodstore" presented in title case. Although the orange rectangle will make a contribution to the overall visual impression the trade mark conveys, acting as it does as a background, any distinctiveness it may possess will, at best, be low. Rather it is the words "easyFoodstore" which are likely to dominate the overall impression conveyed and it is in that combination the vast majority of any distinctive character is likely to lie.

19. The applicant's trade mark consists of a number of components. The first, is a largely circular device presented in red. The presence of the second component i.e. a device of a white fork to the left of this red circular device will lead the average consumer to construe it as a stylised depiction of a plate. The third and final component consists of the words "EASY MEAL" presented in upper case in a slightly stylised but unremarkable font and in which the words form a unit i.e. the word "EASY" qualifies the word "MEAL" and suggests a meal that is, for example, convenient to eat or prepare. Although the device of a fork and what will be construed as a stylised device of a plate will make a visual contribution to the overall impression conveyed, given the goods and services for which registration is being sought, any distinctiveness these components may possess will be low. Although the words "EASY MEAL" will make an important contribution to the overall impression conveyed, any distinctiveness this component may possess will, once again, be low. Considered overall, the distinctive character of the applicant's trade mark lies in the words "EASY MEAL" and, to a lesser extent, the stylised device of a plate and fork. I will bear those conclusions in mind when conducting the comparison which follows.

#### **Comparison with trade mark nos. 1-4 and no. 6**

20. The only visual similarity between the competing trade marks is the word "EASY" which appears as the first word in all of the opponent's trade marks and which is the first

word in the combination “EASY MEAL” in the applicant’s trade mark. Weighing the similarities and differences whilst keeping my comments above in mind, results in a between low and medium degree of visual similarity between the competing trade marks.

21. Insofar as aural similarity is concerned, it is well established that when a trade mark consists of a combination of words and figurative components it is by the word component(s) that it is most likely to be referred to. Proceeding on that basis, the opponent’s trade marks will be referred to orally as “EASY” (plus the word which follows it), whereas the applicant’s trade mark will be referred to orally as “EASY MEAL”. The fact that the word “EASY” will be pronounced first in all the competing trade marks results in a medium degree of aural similarity between them.

22. Finally, conceptual similarity. The opponent’s trade mark nos. 1-4 consist of the word “EASY” followed by a word which describes a foodstuff, beverage or a place where such goods can be obtained, whereas the applicant’s trade mark consists of the word “EASY” followed by the word “MEAL” and a device of a stylised plate and fork. Considered overall, the opponent’s trade marks nos. 1-4 and the applicant’s trade mark are conceptually similar to a high degree. In particular, this applies to trade mark no.1 i.e. “EASYCAFE”. The opponent’s trade mark no. 6 consists of the words “EASY” and “JET” conjoined. As far as I am aware, the word “JET” shares no obvious conceptual similarity to the word “MEAL”. However, to the extent that both parties’ trade marks share the word “EASY”, they are conceptually similar to a low degree.

#### **Comparison with trade mark no. 5**

23. As this trade mark also contains an orange rectangular background, its degree of visual similarity with the applicant’s trade mark is somewhat lower than that mentioned above. However, for the reasons I have already explained, I reach the same conclusion

in relation to the degree of aural and conceptual similarity as I did in relation to the opponent's trade marks nos. 1-4.

### **Distinctive character of the earlier trade marks**

24. The distinctive character of a trade mark can be appraised only, first, by reference to the goods and services in respect of which registration is sought and, secondly, by reference to the way it is perceived by the relevant public – *Rewe Zentral AG v OHIM (LITE)* [2002] ETMR 91. In determining the distinctive character of a trade mark and, accordingly, in assessing whether it is highly distinctive, it is necessary to make an overall assessment of the greater or lesser capacity of the trade mark to identify the goods and services for which it has been registered as coming from a particular undertaking and thus to distinguish those goods and services from those of other undertakings - *Windsurfing Chiemsee v Huber and Attenberger* Joined Cases C-108/97 and C-109/97 [1999] ETMR 585.

25. As the opponent has filed no evidence, I have only the inherent characteristics of its trade marks to consider. I remind myself that in its first counterstatement, the applicant stated:

“It is also pointed out that the word “easy” does not have a distinctive position to which the opposition can appeal. There are many other brands of other holders that include the descriptive word “easy.”

26. Although the applicant has filed no evidence in support of the above, given the dictionary definition of the word “EASY” mentioned above, it lends itself to being used to promote the virtues of many goods and services. The average consumer is likely to be very familiar with the use of the word “EASY” and to regard it as a word likely to be used by many traders.

27. Trade mark nos. 1-5 upon which the opponent relies consist of or contain a combination of the word “EASY”/“easy” together with a word which is descriptive of a food or beverage or a place where such goods may be obtained. Even if it can be argued that the words which follow the word “EASY”/“easy” i.e. CAFÉ, “ESPRESSO”, “COFFEE”, “PIZZA” and “Foodstore” have some distinctive character in relation to some of the goods and services upon which the opponent relies, the distinctive character stems from the combination of words and will be heavily weighted in favour of the meaning attributed to the second word in each trade mark. Considered absent use, the opponent’s trade marks nos. 1-5 are, when considered in relation to some of the goods and services upon which the opponent relies, possessed of a medium degree of inherent distinctive character. However, importantly, the word “EASY” is low in distinctiveness. With the exception of some of the services in class 39, absent use, the opponent’s trade mark no. 6 enjoys a medium degree of inherent distinctive character.

### **Likelihood of confusion**

28. In determining whether there is a likelihood of confusion, a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa. As I mentioned above, it is also necessary for me to keep in mind the distinctive character of the opponent’s trade marks as the more distinctive they are, the greater the likelihood of confusion. I must also keep in mind the average consumer for the goods and services, the nature of the purchasing process and the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks and must instead rely upon the imperfect picture of them he has retained in his mind.

29. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one trade mark for the other, while indirect confusion is where the average consumer realises the trade marks are not the same but puts the similarity that exists

between the trade marks and goods/services down to the responsible undertakings being the same or related.

30. Earlier in this decision, I concluded that:

- I would proceed on the basis that the competing goods and services are identical;
- the average consumer is a member of the general public or business user who, whilst not ignoring aural considerations, will select the goods and services at issue by predominantly visual means whilst paying a varying degree of attention during that process;
- the applicant's trade mark is visually similar to the opponent's trade marks nos. 1-4 and no. 6 to a between low and medium degree (and to trade mark no. 5, visually similar to a somewhat lower degree), aurally similar to all of the opponent's trade marks to a medium degree, conceptually similar to the opponent's trade marks nos. 1-5 to a high degree and to trade mark no. 6 to a low degree;
- absent use, the opponent's trade marks nos. 1-5 are, in relation to some goods and services, possessed of a medium degree of inherent distinctive character and, with the exception of some of the services in class 39, the opponent's trade mark no. 6 enjoys a medium degree of distinctive character;
- the word "EASY" is possessed of a low degree of distinctive character.

31. In *Kurt Geiger v A-List Corporate Limited*, BL O-075-13, Mr Iain Purvis Q.C. as the Appointed Person pointed out that the level of 'distinctive character' is only likely to increase the likelihood of confusion to the extent that it resides in the element(s) of the trade marks that are identical or similar. He stated:

“38. The Hearing Officer cited *Sabel v Puma* at paragraph 50 of her decision for the proposition that ‘the more distinctive it is, either by inherent nature or by use, the greater the likelihood of confusion’. This is indeed what was said in *Sabel*. However, it is a far from complete statement which can lead to error if applied simplistically.

39. It is always important to bear in mind what it is about the earlier mark which gives it distinctive character. In particular, if distinctiveness is provided by an aspect of the mark which has no counterpart in the mark alleged to be confusingly similar, then the distinctiveness will not increase the likelihood of confusion at all. If anything it will reduce it.”

32. In other words, simply considering the level of distinctive character possessed by the earlier trade mark is not enough. It is important to ask “in what does the distinctive character of the earlier trade mark lie?” Only after that has been done can a proper assessment of the likelihood of confusion be carried out.

33. In its written submissions, the opponent states:

“In the first five cases, the Opponent's marks contain the word EASY together with a word that is a food or beverage, or redolent of food. That is the same formula as EASY MEAL. EASY MEAL looks like it belongs to the same stable of marks as the producer of EASYCAFE, EASYESPRESSO, EASYPIZZA etc. Conceptually, the marks are similar. Visually and phonetically, the marks all begin with the identical prefix EASY. They are similar.

EASY MEAL goods would be expected by consumers to be sold at easyFoodstore shops, and onboard EASY JET flights. These marks are also similar.”

34. The opponent's reference to "the same stable of marks", suggests it is treating its trade marks as a "family". In *Il Ponte Finanziaria SpA v OHIM*, Case C-234/06, the CJEU stated that:

"62. While it is true that, in the case of opposition to an application for registration of a Community trade mark based on the existence of only one earlier trade mark that is not yet subject to an obligation of use, the assessment of the likelihood of confusion is to be carried by comparing the two marks as they were registered, the same does not apply where the opposition is based on the existence of several trade marks possessing common characteristics which make it possible for them to be regarded as part of a 'family' or 'series' of marks.

63 The risk that the public might believe that the goods or services in question come from the same undertaking or, as the case may be, from economically-linked undertakings, constitutes a likelihood of confusion within the meaning of Article 8(1)(b) of Regulation No 40/94 (see *Alcon v OHIM*, paragraph 55, and, to that effect, *Canon*, paragraph 29). Where there is a 'family' or 'series' of trade marks, the likelihood of confusion results more specifically from the possibility that the consumer may be mistaken as to the provenance or origin of goods or services covered by the trade mark applied for or considers erroneously that that trade mark is part of that family or series of marks.

64 As the Advocate General stated at paragraph 101 of her Opinion, no consumer can be expected, in the absence of use of a sufficient number of trade marks capable of constituting a family or a series, to detect a common element in such a family or series and/or to associate with that family or series another trade mark containing the same common element. Accordingly, in order for there to be a likelihood that the public may be mistaken as to whether the trade mark applied for



belongs to a 'family' or 'series', the earlier trade marks which are part of that 'family' or 'series' must be present on the market. (my emphasis)

65 Thus, contrary to what the appellant maintains, the Court of First Instance did not require proof of use as such of the earlier trade marks but only of use of a sufficient number of them as to be capable of constituting a family or series of trade marks and therefore of demonstrating that such a family or series exists for the purposes of the assessment of the likelihood of confusion.

66 It follows that, having found that there was no such use, the Court of First Instance was properly able to conclude that the Board of Appeal was entitled to disregard the arguments by which the appellant claimed the protection that could be due to 'marks in a series'."

35. As the passage I have underlined makes clear, in order for the opponent to rely upon an argument that its trade marks constitute a "family", ... "the earlier trade marks which are part of that 'family' or 'series' must be present on the market." As the opponent has filed no evidence in these proceedings, it cannot rely upon the "same stable" argument to which it refers. As a consequence, I must reach a conclusion by individually comparing each of the opponent's trade marks with that of the applicant.

36. Having reminded myself that I am proceeding on the basis that identical goods and services are in play and while I accept that trade marks no.1-5 are aurally similar to the applicant's trade mark to a medium degree and conceptually similar to a high degree, even when they are possessed of a medium degree of distinctive character, the word "EASY" is of low distinctiveness. Given my comments above about the word "EASY", I see no reason why an average consumer who encounters the applicant's trade mark (even if they are paying a low degree of attention) would either mistake it for any of the opponent's trade marks or assume it was a trade mark from an undertaking connected with the opponent, simply because it includes the word "EASY". Nor do I think that such

a consumer would assume an economic connection between the parties simply because the competing trade marks share the same construction i.e. the word “EASY” followed by a word relating to food, beverages or places where such goods may be obtained. In reaching this conclusion, I have borne in mind that the earlier trade marks are only visually similar to the applicant’s trade mark to, at best, a between low and medium degree and the goods and services are likely to be selected primarily by visual means. In my view, the applicant’s trade mark does not have the visual appearance of being a variant of any of the earlier trade marks considered individually.

37. Given the meaning of the word “EASY” (and the likelihood of multiple users of this word) it is, in my view, much more likely that the average consumer will assume that the applicant’s trade mark is simply another trade mark from an unrelated undertaking in the same vein. The fact that all the trade marks evoke the concept of “EASY” does not assist the opponent. Having reached the above conclusions, the opposition which is now based solely upon section 5(2)(b) of the Act, fails.

### **Overall conclusion**

**38. The opposition based upon section 5(2)(b) of the Act has failed and, subject to any successful appeal, the designation will be protected.**

### **Costs**

39. As the applicant has been successful, it is entitled to a contribution towards its costs. Awards of costs in proceedings are governed by Annex A of Tribunal Practice Notice (“TPN”) 2 of 2016. Having applied the guidance in the TPN, I award costs to the applicant on the following basis:

Reviewing the Notice of Opposition and filing a counterstatement:	£300
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40. I order easyGroup Limited to pay to Goldzweig Berlin GmbH the sum of **£300**. This sum is to be paid within two months of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

**Dated this 8<sup>th</sup> day of June 2020**

**C J BOWEN**

**For the Registrar**

**The applicant's goods and services**

**Class 5** - Dietary supplements and dietetic preparations; dietetic substances adapted for medical use.

**Class 8** - Knives; table forks; spoons; boxes adapted for cutlery; food processors, hand-operated, kitchen knives and cutting implements, cutlery for eating; hand-operated tools and implements for treatment of materials, and for construction, repair and maintenance; lifting tools; hygienic and beauty implements for humans and animals; edged and blunt weapons.

**Class 29** - Meats; fish, seafood and molluscs; dairy products and dairy substitutes; birds eggs and egg products; oils and fats; processed fruits, fungi and vegetables (including nuts and pulses); prepared meals containing [principally] eggs; processed fruits, fungi and vegetables (including nuts and pulses); prepared meals containing [principally] eggs; prepared dishes consisting principally of meat; prepared meals consisting substantially of seafood; potato-based snack foods; snack food based on nuts; snack foods based on vegetables; snack foods based on legumes; meat-based snack foods; tofu-based snacks; fruit-based snack food; dairy puddings; desserts made from milk products; yoghurt desserts; fruit desserts; frozen french fries; potato chips; potato flakes.

**Class 30** - Bakery goods; pastries; confectionery; candy cake; chocolate; chewing gum; sugars, natural sweeteners, sweet coatings and fillings bee products; ice, ice creams, frozen yogurts and sorbets; coffee, teas and cocoa and substitutes therefor; processed grains, starches, and goods made thereof; baking preparations and yeasts; rice; tapioca; sago; flour; cereal preparations; bread; edible ices; honey; golden syrup; baking powder; salt; mustard; vinegar; seasonings; spices; ice for refreshment; cereal-based snack food; snack food products made from potato flour; pretzels; crisps made of

cereals; crackers made of prepared cereals; rice-based prepared meals; ready-made dishes containing pasta; cheese curls [snacks]; pies (sweet or savoury); pizzas; pizza crust; popcorn; rice-based snack food; sandwiches; prepared savory foodstuffs made from potato flour; savory pastries; prepared foodstuffs in the form of sauces.

**Class 39** -Transportation and delivery of goods; delivery of groceries; food delivery services.

**Class 44** - Nutrition and dietetic consultancy; diet planning and supervision.

**The opponent's earlier trade marks**

**(1) EUTM no. 14489827**

Trade mark: EASYCAFÉ

Filed: 18 August 2015

Registered: 14 November 2019

**Goods & Services**

**Class 30** - Sugar, rice, tapioca, sago, flour and preparations made from cereals; Bread, pastry and confectionery, ices; Honey; Syrups and treacles; Yeast, baking-powder; Salt; Mustard; Vinegar, sauces (condiments); Spices; Ice; Fruit sauces; namely baked goods, Muffins, Scones, Cookies, Biscuits and pastries, Pies, Pastry, bread, Sandwiches and Muesli; Snack foods; Prepared dishes; Ice-cream and frozen confections; Chocolate, candy and confections.

**Class 32** - Beers; mineral and aerated waters and other non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.

**Class 35** - Advertising; Business management; Business administration; Office functions; The bringing together, for the benefit of others, of cocoa, bread, pastry and confectionery, ices, baked goods, namely muffins, scones, biscuits, pastries, pies, pasties and breads, sandwiches and crunchy muesli, snack foods, prepared meals, chocolate, candy and confections, beers, mineral and aerated waters, fruit juices and fruit drinks, enabling customers to conveniently view and purchase those goods from an in-flight store, by means of telecommunications, an electronic shop or from a retail gift, pharmacy and/or souvenir shop; Retailing relating to the sale of cocoa, meat, fish, poultry and game; retail services connected with the sale of preserved fruits, dried fruits, cooked fruits, dried vegetables, cooked vegetables, products containing fruits, fruit desserts, jellies, jams, compotes; retail services connected with the sale of yoghurt, yoghurt based products, vegetable and fruit based snack foods, fruit puree and pulp, dairy products, milk shakes; retail services connected with the sale of snack foods; retail services connected with the sale of prepared meals, sugar, rice, tapioca, sago, preparations made from cereals; retail services connected with the sale of bread, pastry and confectionery, ices, fruit sauces, baked goods, namely, muffins, scones, biscuits, cookies; retail services connected with the sale of pastries, pies, pasties and breads, sandwiches, granola, ice cream, frozen confectionery; Retailing relating to the sale of chocolate, candy and confectionery, beers, mineral and aerated waters; Retailing relating to the sale of fruit drinks and fruit juices, syrups, mugs, cups, flasks, tumblers

[beverage containers]; retail services connected with the sale of plates, cutlery, aprons, clothing, footwear and headgear, napkins, serviettes, newspapers, paper, magazines and printed materials.

**Class 43** -Temporary accommodation.

**(2) EUTM no. 12747101**

Trade mark: EASYESPRESSO

Filed: 31 March 2014

Registered: 21 April 2015

**Goods & Services**

**Class 30** - Tea, cocoa, sugar, rice, tapioca, sago; flour and preparations made from cereals; bread; honey; treacle; yeast, baking-powder; salt; mustard; vinegar; spices; ice; beverages made with a base of tea, powdered chocolate and vanilla; fruit sauces; baked goods, namely breads and sandwiches; prepared meals; ready-to-drink tea; flavouring syrups for making tea and herbal tea-based beverages.

**Class 35** - Advertising; business management; business administration; office functions; retail services connected with the sale of meat, fish, poultry and game, preserved fruits, dried fruits, cooked fruits, dried vegetables, cooked vegetables, products containing fruits, fruit desserts, jellies, jams, compotes, vegetable and fruit based snack foods, fruit puree and pulp, prepared meals, tea, cocoa, sugar, rice, tapioca, sago, bread, beverages made with a base of tea, powdered chocolate and vanilla, fruit sauces, baked goods, namely breads and sandwiches, ready-to-drink tea, flavouring syrups for making tea and herbal tea-based beverages, beers, mineral and aerated waters, fruit drinks and fruit juices, plates, cutlery, aprons, clothing, footwear and headgear, napkins, serviettes, tea towels, newspapers, paper, magazines and printed materials.

**Class 43** - Temporary accommodation.

**(3) EUTM no. 12715793**

Trade mark: EASYCOFFEE

Filed: 21 March 2014

Registered: 31 March 2015

## **Goods & Services**

**Class 30** - Sugar, rice, tapioca, sago, flour and preparations made from cereals; bread, pastry and confectionery, ices; honey; treacle; yeast, baking-powder; salt; mustard; vinegar, sauces (condiments); spices; ice; fruit sauces; baked goods, namely, muffins, scones, biscuits, cookies, pastries, pies, pasties and breads, sandwiches and granola; snack foods; prepared meals; ice cream, frozen confectionery; chocolate, candy and confections.

**Class 35** - Advertising; business management; business administration; office functions; retail services connected with the sale of meat, fish, poultry and game, preserved fruits, dried fruits, cooked fruits, dried vegetables, cooked vegetables, products containing fruits, fruit desserts, jellies, jams, compotes, yoghurt, yoghurt based products, vegetable and fruit based snack foods, fruit puree and pulp, dairy products, milk shakes, snack foods, prepared meals, sugar, rice, tapioca, sago, preparations made from cereals, bread, pastry and confectionery, ices, fruit sauces, baked goods, namely, muffins, scones, biscuits, cookies, pastries, pies, pasties and breads, sandwiches and granola, ice cream, frozen confectionery, chocolate, candy and confections, beers, mineral and aerated waters and other non-alcoholic drinks, fruit drinks and fruit juices, syrups and other preparations for making beverages, mugs, cups, flasks, tumblers, plates, cutlery, aprons, clothing, footwear and headgear, napkins, serviettes, newspapers, paper, magazines and printed materials.

**Class 43** - Temporary accommodation.

### **(4) EUTM no. 12492096**

Trade mark: EASYPIZZA

Filed: 10 January 2014

Registered: 16 February 2016

## **Goods & Services**

**Class 29** - Jellies, jams, compotes; eggs, milk and milk products; edible oils and fats; meat products; sausages; prepared meals; snack foods; fruit preserves; canned fruits; canned vegetables; canned meat; canned fish; yoghurts; nuts and nut butters; pickles plant extracts for foods; soups; potato crisps.

**Class 30** - Coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee; bread, pastry and confectionery, ices; honey, treacle; yeast, baking-powder; salt, mustard; vinegar, sauces (condiments); spices; ice; sandwiches; prepared meals; filled sandwiches;



pizzas, pies and pasta dishes; chocolate; chocolate products; candy; biscuits; cookies; cakes; ice cream; ketchup; sauces and preparations for making sauces; custard powder; mousses; desserts; puddings; pepper, mustard; vinegar; chutney; spices and seasonings; mayonnaise; natural sweetener; salad dressings; desserts.

**Class 35** - Advertising; business management; business administration; office functions; operation and supervision of loyalty and incentive schemes; advertising services provided via the Internet; production of television and radio advertisements; provision of business information; retail services connected with the sale of jellies, jams, compotes, milk and milk products, desserts, yoghurts, nuts and nut butters, soups, potato crisps, coffee, tea, cocoa, sugar, rice, tapioca, sago, artificial coffee, bread, pastry and confectionery, ices, honey, treacle, yeast, ice, sandwiches, filled sandwiches, chocolate, chocolate products, candy, biscuit, cookies, cakes, ice cream, syrup, molasses, custard powder, mousses, desserts, puddings, chutney, natural sweetener, salad dressings, foodstuffs for animals, beers, mineral and aerated waters and other non-alcoholic drinks, fruit drinks and fruit juices, syrups and other preparations for making beverages, alcoholic beverages, foods and drinks; marketing and publicity services; dissemination of advertising, marketing and publicity materials.

**(5) EUTM no. 11949716**

Trade mark:



“Colours Claimed/Indication  
Orange, white”

Filed: 2 July 2013

Registered: 6 April 2017

## Goods & Services

**Class 29** - Meat, fish, poultry and game; meat extracts; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats; meat products; sausages; fruit preserves; canned fruits; canned meat; canned fish; desserts; yoghurts; nuts and nut butters; pickles plant extracts for foods.

**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; chocolate; chocolate products; candy; biscuits; cookies; cakes; ice cream; syrup, treacle, molasses; ketchup; sauces and preparations for making sauces; custard powder; mousses; desserts; puddings; pepper, mustard; vinegar; chutney; spices and seasonings; mayonnaise; natural sweetener; salad dressings.

**Class 31** - Fresh fruits; foodstuffs for animals.

**Class 32** - Beers; Mineral and aerated waters and other non-alcoholic beverages; Fruit beverages and fruit juices; Syrups and other preparations for making beverages.

**Class 33** - Alcoholic beverages.

**Class 35** - Advertising; business management; business administration; office functions; operation and supervision of loyalty and incentive schemes; advertising services provided via the Internet; production of television and radio advertisements; provision of business information; retail services connected with the sale of drink, 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, tooth cleaning preparations, depilatory preparations, sun-screening and tanning preparations, anti-perspirants, deodorisers and deodorants, books, magazines, newspapers, stationery, calendars, diaries, games and playthings, playing cards, toys, gymnastic and sporting articles, model airplanes, scooters, teddy bears, dolls, balls, meat, fish, poultry and game, meat extracts, preserved, frozen, dried and cooked fruits, jellies, jams, compotes, eggs, milk and milk products, edible oils and fats, meat products, sausages, prepared meals, fruit preserves, canned fruits, canned meat, canned fish, desserts, yoghurts, nuts and nut butters, pickles plant extracts for foods, soups, 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, sandwiches, prepared meals, filled sandwiches, pizzas, pies and pasta dishes, chocolate, chocolate products, candy, biscuit, cookies, cakes, ice cream, syrup, treacle, molasses, ketchup, sauces and preparations for making sauces, custard powder, mousses, desserts, puddings, pepper, mustard,

vinegar, chutney, spices and seasonings, mayonnaise, natural sweetener, salad dressings, fresh fruits and vegetables, foodstuffs for animals, beers, mineral and aerated waters and other non-alcoholic drinks, fruit drinks and fruit juices, syrups and other preparations for making beverages, alcoholic beverages, foods and drinks; marketing and publicity services; dissemination of advertising, marketing and publicity materials.

**(6) EUTM no. 10584001**

Trade mark: EASYJET

Filed: 24 January 2012

Registered: 9 January 2015

**Goods & Services**

**Class 8** - Hand tools and implements; cutlery; electric and non electric razors.

**Class 29** - Meat, fish, poultry and game; meat extracts; jellies, jams, compotes; eggs, milk and milk products; edible oils and fats; canned meat and fish.

**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.

**Class 39** - Transport; packaging and storage of goods; travel arrangement; travel information; provision of car parking facilities; transportation of goods, passengers and travelers by air, land, sea and rail; airline and shipping services; airport check-in services; arranging of transportation of goods, passengers and travelers by land and sea; airline services; baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft, vehicles and boats; chauffeur services; taxi services; bus services; coach services; rail services; airport transfer services; airport parking services; aircraft parking services; escorting of travelers; travel agency services; tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, travel information and travel booking services provided on-line from a computer database or the Internet.