

O/0199/26

TRADE MARKS ACT 1994

IN THE MATTER OF

UK REGISTRATION NO. 4115552

IN THE NAME OF IJAZ-AHMED KHAN

IN RESPECT OF THE FOLLOWING TRADE MARK

Guiding light care

IN CLASS 43

AND

THE LATE FILING OF FORM TM8 AND COUNTERSTATEMENT FILED IN
DEFENCE OF AN INVALIDITY ACTION UNDER NO. 509514

BY

GUIDING LIGHT CARE LTD

1. This decision follows the joint hearing that took place before me via telephone conference, on Tuesday 24 February 2026, in order to consider the implications of the defence having been filed late in these proceedings.

BACKGROUND

2. Trade mark No. 4115552 shown on the cover page of this decision stands registered in the name of Ijaz-Ahmed Khan ("**the Proprietor**"). It was applied for on 23 October 2024 before the UK IPO and was registered on 24 January 2025 for the following services ("**the Contested Mark**"):

Class 43: Children's residential home services.

3. On 9 October 2025, Guiding Light Care Ltd ("**the Applicant**") filed an application to have this trade mark declared invalid under the provisions of section 5(4)(a) and section 3(6) of the Trade Marks Act 1994 ("**the Act**"). These grounds may be relied upon in invalidation proceedings by virtue of section 47 of the Act. I note that the application was filed without notice. The application for invalidity is directed against all of the services for which the Contested Mark stands registered.
4. On 13 October 2025, the Tribunal served the Form TM26I to the Proprietor. The deadline for the Proprietor to file its Form TM8 was 15 December 2025, communicated by the Tribunal in the serving letter. The pertinent paragraphs in the Tribunal's letter were the following:

"If you wish to continue with your registration, you need to file a notice of defence and counterstatement by completing Form TM8 - **please note the important deadline below**. You will find a blank Form TM8 on the IPO website, together with brief guidance on what happens after it is filed: <https://www.gov.uk/government/publications/trade-mark-forms-and-fees/trade-mark-forms-and-fees>

Rule 41(6) of the Trade Marks Rules 2008 require that you must file your notice of defence and counterstatement (Form TM8) within **two months** from the date of this letter.

IMPORTANT DEADLINE: A completed Form TM8 MUST be received on or before 15 December 2025.

In accordance with rule 41(6) if the TM8 and counter-statement are not filed within this period, (a period which cannot be extended), the registration of the mark shall, unless the registrar otherwise directs, be declared invalid in whole or part. **It is important to understand that if the deadline date is missed, then in almost all circumstances, the registration will be treated as invalid in whole or part.**"

[Original emphasis]

5. No Form TM8 was filed by the Proprietor on or before 15 December 2025. The Proprietor filed the Form TM8 on 16 December 2025.
6. On 18 December 2025, the Tribunal wrote to the Proprietor, informing him that as the Form TM8 and counterstatement had not been filed within the prescribed period, it was the Registrar's preliminary view that it was minded to treat the Proprietor as not opposing the application for invalidation and to declare the registration invalid. The Proprietor was invited to provide a witness statement setting out the reasons as to why the Form TM8 and counterstatement were being filed outside of the prescribed period, with a deadline of 8 January 2026 set to challenge the preliminary view and to request a hearing.
7. On 8 January 2026, the Proprietor filed a Form TM8 and a witness statement in the name of Ijaz-Ahmed Khan. Mr Khan, in his witness statement, explained that he was unable to file the counterstatement and defence within the prescribed period due to an unexpected period of significant mental health difficulties. Mr Khan reports that during such period he suffered from severe anxiety and panic attacks along with episodes of excessive sleep. On one occasion he also attended the hospital due to chest pains which the medical staff confirmed were associated with panic symptoms. Mr Khan confirms these symptoms made it impossible for him to concentrate on or properly prepare legal documents. Mr Khan provides a referral letter from his insurance company relating to his medical condition. Mr Khan also states that after such period of ill health, he took immediate steps to prepare the

counterstatement and defence which was ultimately filed one day after the deadline.

8. Mr Khan requested to keep the evidence provided confidential from both the general public and the Applicant.
9. On 13 January 2026, the Tribunal wrote to the parties in the following terms:

“I refer to your correspondence dated 8 January 2026 including:

- a Form TM8 (notice of defence and counterstatement);
- a witness statement providing information as to why the form was filed late and requesting that the registry admit the defence into the proceedings.

After careful consideration of the contents of the papers you have provided the Tribunal’s preliminary view is to admit the late TM8 and counterstatement into the proceedings upon condition of you 1) labelling the exhibit as ‘Exhibit A’, 2) including the omitted reference to Exhibit A within the witness statement and 3) forwarding a copy of the confidential witness statement to the cancellation applicant.

Please note, the Manual of trade marks practice states at Tribunal Section 4.3 that not disclosing evidence to the other party should be avoided unless the circumstances are considered exceptional, as the other side can reasonably expect to see the extent of the case against them.
<https://www.gov.uk/guidance/trade-marks-manual/tribunal-section>

The cancellation applicant is allowed 7 days, i.e. until **20 January 2026**, to file their amended evidence and forward a copy to the other party.

Upon receipt of the above, the Tribunal will issue a confidentiality order and proceed to examine the TM8 and counterstatement.

If either party disagrees with the preliminary view they should request a hearing within 14 days from the date of this letter, i.e. on, or before, **27 January 2026**.

[Original emphasis]

10. On 13 January the Proprietor confirmed his intention to maintain the medical record confidential. Mr Khan replied in the following terms:

“I confirm that the medical letter I submitted is confidential and relates only to the reason for the late filing of my TM8 and witness statement. It contains highly sensitive personal health information and is not relevant to the substantive issues in the cancellation proceedings.

In line with Tribunal Section 4.3 of the Manual of Trade Marks Practice, I do not consent to this medical evidence being disclosed to the cancellation applicant. I respectfully request that it is retained for internal Tribunal consideration only.”

11. On 27 January 2026, the Applicant confirmed that he disagreed with the Tribunal’s preliminary view and wished to have a hearing, which was duly arranged for Tuesday 24 February 2026.

12. On 20 February 2026 both parties filed their respective skeleton arguments.

13. The Proprietor, in the person of Ijaz-Ahmed Khan, submits that the Registry exercised its discretion correctly in accordance with the Trade Mark Rules 2008 (“**the Rules**”) and requests I uphold the Registry’s preliminary view to allow the late-filed Form TM8 into the proceedings.

14. Mr Khan submits that the delay was caused by genuine medical circumstances that were unforeseen and outside of his control and that he further details such medical reasons in his witness statement. Mr Khan also states that such one-day delay is minimal and it does not prejudice the Applicant, whereas the consequence of refusing the late-filed Form TM8 would be wholly disproportionate and unfair as he would be prevented by defending his registration in the proceedings at hand.

15. Mr Khan also directs me to Rule 46(1) and Rule 74 of the Rules and submits that an irregularity in procedure such as the delay in filing the Form TM8 due to medical reasons, as further clarified in his witness statement, is an irregularity that should be rectified to ensure fairness and proportionality under the Rules.

16. The Applicant's skeleton arguments provide a brief summary of the facts and list the relevant deadlines for these proceedings. It is stated that the Registry's preliminary view to accept the late-filed TM8 and the subsequent opportunities given to the Proprietor to file an acceptable witness statement amount to a clear abuse of process.
17. The Proprietor submitted that the reasons for the late filing of the Form TM8 stemmed from a period of significant mental health difficulties. The Applicant submits that the only evidence provided by the Proprietor in support of such health-related reasons for not meeting the deadline is a letter from the Proprietor's healthcare provider, dated 18 September 2025, detailing a referral for medical issues. The Applicant contends that no adequate evidence has been submitted in relation to the ill medical condition the Proprietor claims it transpired during the period to file its Form TM8 and counterstatement (i.e., 13 October 2025 – 15 December 2025).
18. The Applicant also points out that the referral letter is dated almost 3 months prior to the deadline for the Proprietor to file the Form TM8 (i.e., 15 December 2025) and almost one month before the filing of the invalidation action at hand.
19. With regard to the Proprietor's medical condition, the Applicant points out that although the Proprietor failed to meet the deadline to file the Form TM8 and counterstatement on time, he then was able to submit it by email to the UKIPO at 10.37 am on 16 December 2025, i.e., under 11 hours past the deadline. The Applicant states that it is difficult to understand how the Proprietor was unable to complete and file the Form TM8 and counterstatement by 15 December 2025 due to his claimed medical reasons, but he had sufficiently recovered to be able to complete and file the necessary documents a mere 11 hours later, once the non-extendible deadline had passed.
20. The Applicant also submits that the parties are involved in related proceedings (opposition No. OP000455159), which are currently suspended pending the outcome of the cancellation action. The Applicant contends that in these proceedings, the Proprietor was able to file the Form TM7 and the statement of grounds notwithstanding his claimed medical issues.

21. The Applicant also contends that, although it is open to the Proprietor to elect not to have legal representation, in the event that the Proprietor is not able to directly handle the proceedings, this should not be the basis to allow the Proprietor extra leeway or opportunity to file its defence late which would constitute a clear abuse of process.
22. The Applicant also submits that the Proprietor failed to comply with the procedural requirement to copy all correspondence to the Applicant for the proceedings at hand representative, resulting in the Applicant not having the opportunity to fully consider the documents filed by the Proprietor until well after they had been filed.
23. In view of the above, the Applicant submits that the Registry's preliminary view to allow the late filing of the defence documents as per the official letter of 13 January 2026 should be dismissed, as per the provisions of Rule 41(6).

THE JOINT HEARING

24. The hearing took place before me, via Microsoft TEAMS telephone conference, on 24 February 2026. The Proprietor, in the person of Mr Ijaz-Ahmed Khan, represented himself. The Applicant was represented by Mr Andrew Hawley of Groom Wilkes & Wright LLP.
25. At the hearing, both parties restated the arguments outlined in their respective skeleton arguments. I confirm I have taken them into consideration for my assessment, and as both parties attended the hearing, I do not intend to repeat them here. I will now turn to any additional submissions made by the parties that are material to decide this case.
26. In discussing Mr Khan's ability to file the Form TM8 in time, Mr Hawley pointed out that a Form TM8 and counterstatement is just a simple pleading where the Proprietor can merely accept or deny the other party's grounds of the cancellation and the Proprietor is not required to provide any evidence at this stage or provide further elaborated arguments.
27. With regard to the evidence provided by Mr Khan to justify his medical condition that led to the late filing of the Form TM8, Mr Hawley submits that the evidence only consists in a referral dated 18 September 2025 and that no evidence was provided to corroborate the claim of medical issues lasting for two months. Mr

Hawley also submits that there is no evidence for any treatment Mr Khan underwent as well as of the alleged hospital stay. To this regard, Mr Hawley submitted that it seems odd that Mr Khan was affected by prolonged medical reasons for two months that prevented him from filing the Form TM8 in time, but he was then able to file the Form TM8 and a counterstatement quickly after (one day) the deadline had passed.

28. Mr Hawley also contended that allowing the late-filed TM8 into the proceedings would constitute a prejudice for the Applicant. Firstly, because the Applicant would be required to continue with the proceedings at hand and face the related costs. Secondly, because the registration for which the present invalidation is sought forms the basis for the related opposition number 455159; therefore, allowing the proceedings at hand to continue will directly impact the related opposition which will also remain standing.

29. Mr Khan restated that he was not able to meet the deadline to file the Form TM8 due to genuine medical circumstances. Mr Khan clarified that he did start working on the Form TM8 when he was well enough to do so and continued to complete it in parts as his health deteriorated preventing him from concentrate to complete the task at hand. Mr Khan also clarified that he was not caught by surprise by the deadline approaching as he had worked on the form for some time before the deadline, and although he was not able to finalise it in time, he could file it one day after the deadline had passed.

30. Mr Khan also clarified that during the period at hand he entered the hospital on a number of occasions and provided further details on his medical condition.

31. At the conclusion of the hearing, both parties submitted their respective requests for standard costs to be awarded in their favour. I also confirmed that I would reserve my judgment to allow myself time to give due consideration to all of the papers on file and the submissions of both parties, and that my decision would be issued in writing in due course.

DECISION

32. The filing of a Form TM8 and counterstatement in invalidation proceedings is governed by Rule 41(6) of the Rules which reads as follows:

“The proprietor shall, within two months of the date on which a copy of Form TM26(l) and the statement was sent by the registrar, file a Form TM8, which shall include a counter-statement, otherwise the registrar may treat the proprietor as not opposing the application and registration of the mark shall, unless the registrar otherwise directs, be declared invalid.”

33. The combined effect of Rules 77(1), 77(5) and Schedule 1 of the Rules means that the time limit in Rule 41(6), which sets out the period within which the defence must be filed, is non-extendable other than in the circumstances identified in Rule 77(5), which states:

“A time limit listed in Schedule 1 (whether it has already expired or not) may be extended under paragraph (1) if, and only if –

(a) the irregularity or prospective irregularity is attributable, wholly or in part, to a default, omission or other error by the registrar, the Office or the International Bureau; and

(b) it appears to the registrar that the irregularity should be rectified.”

34. There has been no suggestion of any irregularity on the part of the Tribunal. Consequently, the only basis upon which the Proprietor may be allowed to defend the cancellation proceedings is if I exercise in his favour the discretion afforded to me by the use of the words “unless the registrar otherwise directs” in Rule 41(6). I must be satisfied that there are extenuating circumstances which justify the exercise of the discretion in the Proprietor’s favour. In approaching the exercise of discretion in these circumstances, I take into account the decisions of the Appointed Person in *Kickz AG v Wicked Vision Limited* (BL O-035-11) and *Mark James Holland v Mercury Wealth Management Limited* (BL O-050-12). Although those decisions concerned opposition rather than invalidation proceedings, the same principles are relevant. Bearing those decisions in mind, I must be satisfied that there are extenuating circumstances or compelling reasons to exercise the Registrar’s discretion in favour of Mr Khan.

35. In *Music Choice Ltd’s Trade Mark* [2006] RPC 13, the Court indicated that a consideration of the following factors (shown below in bold and underlined) is likely

to be of assistance in reaching a conclusion as to whether or not discretion should be exercised in favour of a party in default. That is the approach I intend to adopt, referring to the parties' submissions to the extent that I consider it necessary to do so.

The circumstances relating to the missing of the deadline including reasons why it was missed and the extent to which it was missed

36. The circumstances relating to the missing of the deadline have already been outlined above. In summary, they revolve around Mr Khan's ill health during the period leading to the deadline to file the Form TM8 and the Applicant's argument that Mr Khan did not sufficiently particularise and evidence his medical condition to sufficiently justify his delay. Mr Khan also contends that the deadline was missed by less than eleven hours and not allowing the defence for such a short delay would be unfair and disproportionate.

The nature of the Applicant's allegations in its statement of grounds

37. The invalidation action is brought under sections 47(1), 47(2)(b), 5(4)(a) and 3(6) of the Act and is directed against the Contested Mark and all the services for which it registered. Whilst it is not for the present hearing to determine the merits of the case, for the purpose of the criteria under consideration, I find that there is nothing to suggest that the invalidation action is without merit.

The consequences of treating the Proprietor as opposing or not opposing the cancellation

38. If the Proprietor is permitted to defend the invalidity action, the proceedings will continue with the parties given an opportunity to file evidence, and the matter will be determined on its merits. However, if the Proprietor is not allowed to defend the invalidity action, the registration at hand will be treated as wholly invalid, and the Proprietor will lose its registered mark. I appreciate that losing its registered trade mark is a significant prejudice. However, as clarified by the Office's communication, and as restated at the hearing, the deadline to file a Form TM8 is a statutory one and I am allowed to extend it exclusively when exceptional extenuating

circumstances occur. Furthermore, I must consider that when medical circumstances are adduced as reasons for the delay, specific evidence from medical professionals must be provided to show how such condition made it impossible for the party to respect such statutory deadline.

Any prejudice caused to the Applicant by the delay

39. The Applicant argued that if the defence is accepted into the proceedings, the Applicant would be required to continue with the proceedings at hand and face the related costs. I note that it was the Applicant that started the proceedings and, therefore, the costs related to the proceedings would only be a natural consequence of its action and that it should have accounted for before filing for the invalidity.

Any other relevant considerations, such as the existence of related proceedings between the same parties.

40. Mr Hawley clarifies that the registration for which the present invalidation is sought forms the basis for the related opposition number 455159. Therefore, allowing the proceedings at hand to continue will directly impact the related opposition which will also remain standing.

CONCLUSIONS

41. In reaching my decision, I recognise that if the discretion is not exercised in the Proprietor's favour the registration will be treated as invalid and the Proprietor will lose its registered trade mark. Additionally, I bear in mind that the deadline for filing a Form TM8 is a statutory one, with the Proprietor having been made fully aware of the consequences of failing to comply by way of correspondence from the Tribunal.

42. At the hearing, Mr Khan stated that although he could have provided evidence of his stays at the hospital, and that he did not file such evidence because he was not requested to do so. He then continued stating that providing such evidence would have been difficult for him and he did not intend to share personal information. Irrespective of the reasons for which Mr Khan did not file such additional evidence,

I point out that he was duly informed of the necessity to file evidence in support of his reasons for the late filing of the Form TM8. The official letter dated 18 December 2025 informed the Proprietor that:

“If you disagree with the preliminary view, you must file a witness statement setting out the reasons for the failure to meet the deadline on, or before, 8 January 2026.

Guidance on how to complete a witness statement is available from the link below:

<https://www.gov.uk/government/publications/filing-evidence-about-an-application-or-in-tribunal-proceedings>”

43. At the link provided in the official communication, the section titled “Part 2: body of the statement” clarifies the following:

“You should provide any documentary evidence to support your statement in the form of exhibits. The exhibits need to be mentioned in the witness statement and should be clearly labelled. If possible, include separate header sheets for each exhibit.”

44. It follows the Proprietor should have been aware that documentary evidence was required to support his witness statement.

45. Mr Khan, in his skeleton arguments, states that his ill health was such that he was unable to file the form within the prescribed time. However, no further clarification was provided on the extent his condition impacted his ability to timely complete the form apart from the fact that he was not able to concentrate on it enough to complete it in time.

46. In deciding the case at hand, I am reminded of the findings of Mr Phillip Johnson in O/378/18 where, sitting as the Appointed Person, he stated:

“21. It is vital, therefore, where a person seeks to establish that health problems have affected his or her ability to participate in proceedings, that specific

evidence from medical professionals is provided as to the effect it has had (or will have) on those proceedings. [...]

22. I also accept that where a person suffers from ill health (whether mental or otherwise), it may be necessary for that person to make at least a partial recovery before they can provide such evidence to a tribunal; although in most (although not all) cases some form of contact can be made at least to inform the tribunal of a person's current difficulties.

23. Finally, where there is a period for doing something under the rules, in this case two months (r 38(3)), it cannot be a sufficient excuse that the person is ill on the last day. The duty to file something within a two-month period is not an obligation to file it on the last day of that period. In other words, parties should be expected to allow for illnesses and other problems arising. On the other hand, it would be unreasonable for a tribunal to expect somebody who unexpectedly becomes unwell shortly into the two-month period to have complied while they were well in the expectation they would become sick.

24. Where a person is chronically ill they might have a good day (or few days) and be expected to comply when they are well because such a person would be aware their illness might provide difficulties in the future. Indeed, as Miss Jones rightly points out, it is probably the case that those with chronic illness (whether mental or otherwise) would always need to be considered on a case-by-case basis as to whether it was possible for them to file on time and, if not, what allowances should be made.”

47. Mr Khan contended that his medical circumstances were “unforeseen and outside of his control”. I do not find this explanation to be compelling. From Mr Khan's submissions (and evidence) it emerges that he had been unwell for at least two months prior to the deadline at hand (i.e., between September and December 2025) and that he had been completing the Form TM8 in parts trying to conclude it before the deadline; however, he was unable to concentrate on the form sufficiently to finalise it within the prescribed time with the result that he filed it the day after the deadline had passed. In support of his prolonged period of ill health, Mr Khan provided a referral letter from his healthcare provider advising on how to

address his condition. However, Mr Khan neither provided further clarification nor evidence on how his health status developed over the two months following this referral (i.e., the period preceding the deadline at hand) including whether he underwent any kind of treatment. From Mr Khan's submissions, I gather that, notwithstanding his poor health condition, he was well aware of the deadline approaching and worked towards finalising the Form TM8. Whilst I appreciate that Mr Khan suffered from poor health during this period, absent further clarification and/or evidence, I do not see how it could have barred him from filing the Form TM8 within the prescribed time only to, then, go ahead and file it less than eleven hours after the deadline had passed.

48. Whilst I appreciate that Mr Khan's health circumstances likely caused him difficulties, my view is that the explanation and evidence provided are insufficient to demonstrate compelling reasons and/or exceptional circumstances to justify exercising my discretion.

49. Furthermore, I agree with Mr Hawley's argument that a Form TM8 is relatively simple to complete and that it can be filed merely accepting or denying the other party's pleadings without the need of further particularisation as additional submissions can be provided at a later stage in the proceedings. Therefore, although Mr Khan suffered from ill health that made the filing of Form TM8 more burdensome, being allowed two months to do so and having knowledge of such deadline, I find that, absent further evidence on Mr Khan's medical conditions, I do not find Mr Khan's circumstances to be exceptional to the extent to justify exercising my discretion.

50. For the sake of completeness, I note that the Applicant contends that the Proprietor was able to file the Form TM7 and the statement of grounds in the related proceedings (opposition No. OP000455159) notwithstanding his claimed medical issues. The TM7 was filed in July 2025. Although I found that Mr Khan was likely to have been unwell already some time before mid-September 2025, I cannot discard the possibility that at the time of filing the TM7 he was still feeling well enough to file such form.

51. Considering the specific circumstances in this matter and the evidence before me, the reason for missing the deadline for the filing of Form TM8 seems to be

attributable to the Proprietor. From the facts before me it emerges that the Proprietor had suffered from a chronic health condition during the time leading to the prescribed deadline, that he was aware of the deadline approaching to the extent that he was able to almost finalise the form before the deadline passed. Taking into account the lack of sufficient evidence regarding Mr Kahn's medical condition and how this condition barred him from filing the form on time, and absent further clarification on the steps that the Proprietor may have taken to comply with the deadline, I find that the onus is on the Proprietor to ensure that it has a system or procedure in place to make sure that the prescribed deadlines are respected with the result that the Proprietor had been "the author of its own misfortune" in its failure to timely correspond with the Office.¹

52. I therefore I do not find the Proprietor's medical condition, as presented by Mr Khan, to be a reason (or combination of reasons) sufficient to constitute extenuating circumstances or compelling reasons to enable me to exercise my limited discretion in the Proprietor's favour to admit the late-filed Form TM8 and counterstatement into these proceedings.

OUTCOME

53. In the light of the foregoing, it is my view that that it would be inappropriate for me to exercise the discretion available under Rule 41(6) in favour of the Proprietor. Subject to any successful appeal, the preliminary view to admit the late-filed Form TM8 and counterstatement is overturned, and the registration NO. 4115552 will be deemed invalid for all its registered services.

COSTS

54. Given that my decision terminates the proceedings, I must consider the matter of costs. As noted, the invalidity application has been filed without notice. The following paragraph of Tribunal Practice Notice 1/2023,² therefore, applies:

"Costs in undefended actions

¹ *Kickz AG v Wicked Vision Limited* (BL O-035-11).

² Tribunal Practice Notice (TPN) 1/2023: Costs in proceedings before the Comptroller.

7. Unless factors exist which suggest otherwise, costs will not be awarded against parties who do not defend an action which has been brought against them without prior notice.”

55. I therefore make no order for costs.

Dated this 12th day of March 2026

Andrea Rossi
For the Registrar