

O/0261/26

TRADE MARKS ACT 1994

IN THE MATTER OF REGISTRATION NO. 910792513

IN THE NAME OF MANITOU BF (SOCIÉTÉ ANONYME)

FOR THE TRADE MARK:



IN CLASSES 35 AND 37

AND

AND AN APPLICATION FOR REVOCATION THERETO UNDER NO. 507683

BY KILBURN & STRODE LLP

Background and pleadings

1. The trade mark shown on the cover page of this decision (“the contested mark”) stands registered in the name of MANITOU BF (Société Anonyme) (“the proprietor”). The contested mark was filed on 6 April 2012 and was registered on 6 September 2012 for the following services:

Class 35: Management and planning for vehicle fleets.

Class 37: Vehicle maintenance and repair services.

2. The contested mark is a comparable mark. Under Article 54 of the Withdrawal Agreement between the UK and the EU, the UK IPO created comparable UK trade marks for all right holders with an existing registered EUTM. As a result, the contested mark was converted into a comparable UK trade mark. Comparable UK marks are now recorded in the UK trade mark register, have the same legal status as if they had been applied for and registered under UK law, and the original filing dates remain the same.

3. On 15 August 2024, Kilburn & Strode LLP (“the applicant”) filed an application seeking to revoke the contested mark on the grounds of non-use under sections 46(1)(a) and 46(1)(b) of the Trade Marks Act 1994 (“the Act”).¹

4. Under section 46(1)(a) of the Act, the applicant claims non-use in respect of all registered services in the five-year period from 7 September 2012 to 6 September 2017, seeking an effective date of revocation of 7 September 2017.

5. Under section 46(1)(b) of the Act, the applicant claims non-use of the contested mark in respect of all registered services for the following periods: 7 September 2017 to 6 September 2022, seeking an effective date of revocation of 7 September 2022; and 15 August 2019 to 14 August 2024, seeking an effective date of revocation of 15 August 2024.

¹ The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK’s withdrawal from the EU.

6. The proprietor filed a counterstatement defending its registration in respect of the following services:

Class 35: Management and planning for vehicle fleets.

7. Only the proprietor filed evidence in these proceedings. This will be summarised to the extent that it is considered necessary.

8. Neither party requested a hearing. Only the proprietor filed written submissions in lieu of a hearing, which will not be summarised but will be referred to as and where appropriate during this decision. This decision is taken following a careful perusal of the papers on file.

9. The proprietor is represented by Mewburn Ellis LLP in these proceedings. The applicant is a trade mark attorney firm representing itself.

Evidence and submissions

10. The proprietor's evidence was filed in the form of two witness statements:

- The witness statement of Michel Denis dated 17 January 2025, which is accompanied by twelve exhibits (Exhibit 1 to Exhibit 12). Mr Denis is the CEO of the proprietor.
- The witness statement of Jamie Emerick dated 17 January 2025, which is accompanied by one exhibit (JAE1). Mr Emerick is a trainee trade mark attorney at Mewburn Ellis LLP dated, the firm representing the proprietor.

11. The proprietor also filed written submissions dated 28 April 2025.

DECISION

12. Section 46 of the Act states:

“46. - (1) The registration of a trade mark may be revoked on any of the following grounds-

(a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the

United Kingdom, by the proprietor or with his consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;

(b) that such use has been suspended for an uninterrupted period of five years, and there are no proper reasons for non-use;

(c) [...]

(d) [...]

(2) For the purpose of subsection (1) use of a trade mark includes use in a form (the "variant form") differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as in referred to in that paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made:

Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(4) [...]

(5) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation shall relate to those goods or services only.

(6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be deemed to have ceased to that extent as from-

(a) the date of the application for revocation, or

(b) if the registrar or court is satisfied that the grounds for revocation existing at an earlier date, that date”.

13. Section 100 is also relevant, which reads:

“If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it.”

14. As the contested mark is a comparable mark, pursuant to paragraph 8 of part 1, schedule 2A of the Act, the proprietor may rely upon use of the mark in the EU for any parts of the relevant periods which fall prior to IP Completion Day, being 31 December 2020. The only use after that date that is of relevance is use in the UK.

15. As noted previously, under section 46(1)(a), the relevant period for assessing whether there has been genuine use is 7 September 2012 to 6 September 2017 (“the first relevant period”), while the relevant periods under section 46(1)(b) are 7 September 2017 to 6 September 2022; and 15 August 2019 to 14 August 2024 (“the second relevant periods”). A finding of genuine use during the second relevant periods will be sufficient to avoid revocation of the mark under section 46(1)(b), and, by virtue of section 46(3), section 46(1)(a). Provided that such use is deemed to be genuine use, this will be the case even if the evidence in relation to the first relevant period is deemed insufficient.

16. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

“105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 *P Sunrider*

Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs) [2006] ECR I-4237, Case C-442/07 Verein Radetsky-Order v Bunderversammlung Kamaradschaft 'Feldmarschall Radetsky'[2008] ECR I-9223, Case C-495/07 Silberquelle GmbH v Maselli-Strickmode GmbH [2009] ECR I-2759, Case C-149/11 Leno Marken BV v Hagelkruis Beheer BV [EU:C:2012:816], Case C-609/11 Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG [EU:C:2013:592], Case C-141/13 P Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs) [EU:C:2014:2089], Case C-689/15 W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse [EU:C:2017:434] and Joined Cases C-720/18 and C-721/18 Ferrari SpA v DU [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a sub-category of goods or services, the principles may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: Ansul at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: Ansul at [36]; Sunrider at [70]; Verein at [13]; Centrotherm at [71]; Leno at [29]; Ferrari at [32].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: Ansul at [36]; Sunrider at [70]; Verein at [13]; Silberquelle at [17]; Centrotherm at [71]; Leno at [29]; Gözze at [37], [40]; Ferrari at [32].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising campaigns: Ansul at [37]. Internal use by the proprietor does not suffice: Ansul at [37]; Verein at [14]. Nor does the distribution of promotional

items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].

107. The trade mark proprietor bears the burden of proving genuine use of its trade mark: see section 100 of the Act and *Ferrari* at [73]-[83]. The General Court (“GC”) has repeatedly held that genuine use of a trade mark cannot be proved by means of probabilities or suppositions, but must be demonstrated by solid and objective evidence of effective and sufficient use of the trade mark on the market concerned: see e.g. Case T-78/19 *Lidl Stiftung & Co KG v European Union Intellectual Property Office* [EU:C:2020:166] at [25]. It has also repeatedly held that the smaller the commercial volume of the exploitation of the mark, the more necessary it is for the proprietor to produce additional evidence to dispel any doubts as to the genuineness of its use: see e.g. *Lidl* at [33]. In *Awareness Ltd v Plymouth City Council* [2013] RPC 24, Daniel Alexander QC sitting as the Appointed Person said:

‘19. For the tribunal to determine in relation to what goods or services there has been genuine use of a mark during the relevant period, it should be provided with clear, precise, detailed and well-supported evidence as to the nature of that use during the period in question from a person properly qualified to know. [...]

22. [...] it is not strictly necessary to exhibit any particular kind of documentation but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the more so since the nature and extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive. By the time the tribunal [...] comes to take its final decision, the evidence must be sufficiently solid and specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaken, having regard to the interests of the proprietor, the opponent and, it should be said, the public.”

17. Proven use of a mark which fails to establish that “the commercial exploitation of the marks is real” because the use would not be “viewed as warranted in the economic

sector concerned to maintain or create a share in the market for the goods or services protected by the mark” is, therefore, not genuine use.

Form of the mark

18. Before I move on to assess whether the proprietor has shown genuine use, I must first consider if I find the use of the mark as shown in the evidence to be use of the mark as registered.

19. Section 46(2) of the Act states that:

“...use of a trade mark includes use in a form (“the variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it is registered...”

20. In the case before me, the registered mark is a figurative mark containing the words ‘Easy MANAGER’ inside a map pin figurative element, all in greyscale. The mark is shown below.



21. Various forms of the mark are used in the evidence. Firstly, the above mark is used with the word “Easy” in a red colour:



22. As the mark is registered in black and white, normal and fair use would include use in different colours, such as that used in the above variant.

23. Secondly, the stylised words are used without the figurative map pin element, in two different colour schemes, one in greyscale and one with the word 'Easy' in a red colour, as shown below.



24. In *Lactalis McLelland Limited v Arla Foods AMBA*, BL O/265/22, Phillip Johnson, sitting as the Appointed Person, considered the correct approach to the test under s. 46(2). He said:

“13. [...] While the law has developed since Nirvana [BL O/262/06], the recent case law still requires a comparison of the marks to identify elements of the mark added (or subtracted) which have led to the alteration of the mark (that is, the differences) (see for instance, T-598/18 Grupo Textil Brownie v EU*IPO, EU:T:2020:22, [63 and 64]).

14. The courts, and particularly the General Court, have developed certain principles which apply to assess whether a mark is an acceptable variant and the following appear relevant to this case.

15. First, when comparing the alterations between the mark as registered and used it is clear that the alteration or omission of a non-distinctive element does not alter the distinctive character of the mark as a whole: T-146/15 Hyphen v EUIPO, EU:T:2016:469, [30]. Secondly, where a mark contains words and a figurative element the word element will usually be more distinctive: T-171/17 M & K v EUIPO, EU:T:2018:683, [41]. This suggests that changes in figurative elements are usually less likely to change the distinctive character than those related to the word elements.

16. Thirdly, where a trade mark comprises two (or more) distinctive elements (eg a house mark and a sub-brand) it is not sufficient to prove use of only one

of those distinctive elements: T-297/20 *Fashioneast v AM.VI. Srl*, EU:T:2021:432, [40] (I note that this case is only persuasive, but I see no reason to disagree with it). Fourthly, the addition of descriptive or suggestive words (or it is suppose figurative elements) is unlikely to change the distinctive character of the mark: compare, T-258/13 *Artkis*, EU:T:2015:207, [27] (*ARKTIS* registered and use of *ARKTIS LINE* sufficient) and T-209/09 *Alder*, EU:T:2011:169, [58] (*HALDER* registered and use of *HALDER I*, *HALDER II* etc sufficient) with R 89/2000-1 *CAPTAIN* (23 April 2001) (*CAPTAIN* registered and use of *CAPTAIN BIRDS EYE* insufficient).

17. It is also worth highlighting the recent case of T-615/20 *Mood Media v EUIPO*, EU:T:2022:109 where the General Court was considering whether the use of various marks amounted to the use of the registered mark *MOOD MEDIA*. It took the view that the omission of the word “*MEDIA*” would affect the distinctive character of the mark (see [61 and 62]) because *MOOD* and *MEDIA* were in combination weakly distinctive, and the word *MOOD* alone was less distinctive still.”

25. I consider that the words ‘*Easy MANAGER*’ are significantly more distinctive than the figurative map pin element, which acts as a surround or background for the words. As such, following the guidance provided in *Lactalis*, the removal of the figurative map pin element does not alter the distinctive character of the mark as registered as a whole. Additionally, normal and fair use of the mark would include use in different colours, such as the yellow colour used in the first of these variants.

26. Thirdly, the word “*Easy MANAGER*” in plain font is used. As above, I find the words of the mark significantly more distinctive than the figurative elements. The font used is not unique and does not add significant distinctive character.

27. I therefore find that all of the forms of the earlier mark used in the evidence are acceptable variants of the mark as registered.

Evidence of use

28. In its notice of defence, the proprietor claims that use has been made in respect of some of the services for which the mark is registered. I must therefore consider

whether, or to the extent to which, the evidence shows genuine use of the mark in relation to those services, being:

Class 35: Management and planning for vehicle fleets.

29. From the witness statement of Michel Denis, I note that the proprietor sells a range of heavy equipment and machinery, along with add-on tools. One of the add-on tools is a connected machines service which generates real-time access to data including machine status, geolocation and fuel level. This service is called the Easy MANAGER platform.

30. I note that Easy MANAGER products and services are supplied in the UK via the subsidiary company Manitou UK. Mr Denis states that Manitou's machinery and equipment, and therefore the Easy MANAGER platform, is sold by a range of retailers in all regions of the UK.

31. Mr Denis states that the key features of the Easy MANAGER platform are: real-time status and location monitoring of equipment; detailed activity reports; identifying inactive or underused machinery; maintenance logs for servicing and safety inspections with automated reminders; monitoring activities and reports that can be scheduled; alerts if equipment is used outside designated locations or times; technical alerts for improper use; and access authorisations to prevent unauthorised personnel from operating machinery. Exhibit 1 includes a screenshot of the Manitou website with information about the services offered under the Easy MANAGER mark. I note that this website is undated. Exhibit 2 includes extracts from a presentation that Mr Denis states was given by the opponent in June 2017. The presentation provides information about the Easy MANAGER toolsuite and its various features. I note that, although Mr Denis states that the presentation was given by the opponent in June 2017, there is no indication of to whom it was presented or when, or indeed if, this information became publicly available.

32. Mr Denis states that the Easy MANAGER system is pre-installed on most of Manitou's equipment and machines, and a subscription to the Easy MANAGER platform allows users to access a web-based and mobile application version of the platform. The initial 2 to 3 year subscription, depending on the type of vehicle purchased, is included in the cost of the vehicle. The subscription can then be renewed

after this 2 to 3 year period, at £10 per month, as shown in the presentation included in Exhibit 3. Mr Denis states that this presentation was given during a webinar in December 2020. However, as above, there is no indication of when, or indeed if, this information became publicly available.

33. The Easy MANAGER platform is available as a mobile application on both the Google Play Store and the Apple App Store, as shown in Exhibit 4. The former was released on 24 May 2017. The latter does not have a release date stated, however there is a review shown from 1 June 2022. Both versions of the application show the figurative mark without the map pin border, on the application icon as well as in the application itself, and the information describing the applications includes the plain words Easy MANAGER. The platform is also accessible as a webpage, as shown in Exhibit 5. The website likewise uses the figurative mark without the map pin border. The mobile application and webpage are advertised in brochures shown in Exhibit 6, although these are undated.

34. Exhibit 7 includes a catalogue which Mr Denis states was made available to UK dealers in the period 2019 to 2024 to promote the Easy MANAGER platform. This catalogue uses all three of the forms of the Easy MANAGER mark discussed above. The catalogue provides information about the service and its features.

35. The interactive user guide provided in Exhibit 8 also uses all three forms of the mark and provides detailed information about the use of the platform. The guide explains how to view a map of all connected machines, which allows a user to view the condition, location and status of the machine as well its itinerary. It also explains how to view various reports, which include information such as the changes in activity of a vehicle, a history of the machine activity, if the equipment was active outside of a specified time period, all the periods of activity of the equipment, and the equipment idle and static times. A service log is also provided, which allows users to create an email alert for future servicing and plan service operations. Alarms can be set to alert if equipment enters or leaves a zone, if the equipment moves during a period of time, if the equipment is in a bad condition and if the equipment moves more than a given distance from its current position.

36. Mr Denis states that, before the end of 2020, all Easy MANAGER revenue was factored into the sales price of machines and equipment and was not separately recorded. Detailed sales figures have therefore not been provided before this date. However, figures have been provided for the end of 2020 and for the full years from 2021 to 2024, as shown below. The figure for the end of 2020 is significantly lower and it is not clear how many months it covers, so I have not included it below.

	2021	2022	2023	2024
New units	£265,000	£590,000	£815,000	£775,000
Renewal	£0	£75,000	£110,000	£125,000
Total	£265,000	£665,000	£925,000	£900,000

37. I note that, from the information provided, it is not possible to ascertain what proportion of the total sales accounts for Easy Manager. In addition, Mr Denis states that “most” new units are equipped with the system so it is not clear whether all of the ‘new units’ sales are for units equipped with Easy Manager. Nevertheless, the sales figures for renewals, which only include the Easy MANAGER system, are not negligible and clearly increase over time.

38. I also note that Mr Denis’s statement suggests that the renewal figures reflect sales to customers who purchased new units with the Easy Manager system 2 or 3 years earlier. For example, the renewals in 2022 may have been for units purchased in 2019 or 2020.

39. The spreadsheet shown in Exhibit 10 details the average number of connections of different machines and equipment to the Easy MANAGER platform per month, split by customer. This spreadsheet shows that there were 127 users of the platform in 2022 and 2023, and 135 users in 2024. Mr Denis states that approximately 50% of machines have their Easy MANAGER subscription renewed once the free trial ends.

40. One invoice has been provided in Exhibit 11. It shows the sale of six “MONITOR” items. The Manitou Group logo is shown on the invoice header. The words Easy MANAGER are only included as the reference for the invoice. The invoice was sent to a UK customer and the total was £720.

41. Mr Denis states that the Easy MANAGER system is promoted to UK consumers via Manitou's website as well as via Manitou's UK dealers. Manitou's website is shown in Exhibit 1. I note that it is a '.com' website with no indication that it is targeted at UK consumers. Exhibit 12 includes examples of advertisements run by Manitou's UK dealers. The advertisements include a social media post and articles on third-party websites. Due to the global nature of social media, it is not clear whether the post is targeted at UK consumers, although Mr Denis states that the company that posted it is UK-based. The post is also undated; it states that it was posted 3 months before the screenshot was taken, but I cannot determine when this occurred. The first article on the MACADAM website, dated 20 February 2024, also does not make the intended consumer clear, and there is no web address given. The second and third websites have '.co.uk' addresses so are clearly targeted at UK consumers. However, neither website is dated so it is not clear if they were available during the relevant period.

42. The witness statement of Jamie Emerick refers to exhibit JAE1, which includes a number of screenshots of websites showing products for sale or lease under the MANITOU BF (Société Anonyme) brand, which Mr Emerick states were sold or leased between 15 August 2019 and 14 August 2024. I note that none of the webpages make mention of the Easy MANAGER brand, or indeed any add-on tools or platforms; the websites only appear to advertise the vehicles themselves.

Genuine use

43. For use to be genuine, it must have been real commercial exploitation of the mark, in the course of trade, sufficient to create or maintain a market for the goods at issue in the relevant territory during the relevant five-year period. In making my assessment, I am required to consider all relevant factors, including:

- The scale and frequency of the use shown;
- The nature of the use shown;
- The goods and services for which use has been shown;
- The nature of those goods and services and the market(s) for them; and
- The geographical extent of the use shown.

44. An assessment of genuine use is a global assessment, which includes looking at the evidence as a whole.² The evidence presented does demonstrate that a system allowing customers to monitor and manage their linked equipment and machines bearing the proprietor's mark was sold in the UK during the relevant periods. It also shows that the Easy Manager system can be accessed via mobile applications and that in the years 2022 to 2024, the system had a reasonable number of users.

45. However, the evidence has its limitations. For example, there is no information provided regarding the amount spent on marketing the goods in the UK, nor is there any reference to the size of the relevant market. Additionally, only one invoice has been provided to demonstrate sales. I also note that much of the evidence is undated, including the social media posts and advertising, and no figures relating to download numbers are provided for the mobile applications. In addition, no information is provided regarding the number of dealers of the dealers to whom the catalogues were provided, nor are their geographic locations provided. Finally, Mr Emerick's witness statement and evidence does not relate to the Easy Manager system at all.

46. It appears from the evidence that the proprietor offers connected machines and equipment that enable access to data regarding those machines and equipment through the Easy Manager system. The Easy Manager system allows users to monitor and manage their equipment and machines, including allowing them to set up alerts for the future, create reports and access a service log for each vehicle. Crucially, users perform all of these tasks on Easy Manager themselves, with the proprietor simply providing the platform for doing such. There is no evidence to suggest that the proprietor itself manages the fleets or plans servicing or the like. It appears that, rather than the proprietor providing the service of managing and planning for a user's vehicle fleets, the proprietor provides a platform, through which the user can manage and plan for their own fleets. I note that, in Mr Denis's witness statement, he states that the Easy Manager platform is as an "add-on tool" and a "tool and platform". This appears to be an accurate description of the platform as shown in the evidence; it is a tool that allows a consumer to manage their equipment and machines, plan in servicing and set up alerts for the future. The proprietor does not appear to do anything with the data

² *New Yorker SHK Jeans GmbH & Co. KG v OHIM*, Case T-415/09

collected to actively manage the vehicles, nor does the app plan anything, it merely allows a user to plan for themselves.

47. Taking all of the above into account, I do not consider the evidence to demonstrate that, under the Easy Manager mark, the proprietor provides the service of managing and planning for users' vehicle fleets.

48. Taking all of the evidence into account, I am not satisfied that the proprietor has shown genuine use of its mark for the services in question.

Conclusion

49. The application for revocation has been successful. Subject to a successful appeal, the contested mark will be revoked for all of the registered services from the earliest date requested, being 7 September 2017.

COSTS

50. The cancellation applicant has been successful and is therefore entitled to a contribution towards its costs, based upon the guidance in Tribunal Practice Notice 1/2023. In the circumstances, I award the cancellation applicant the sum of £650. This sum is calculated as follows:

Preparing the TM26N and statement of grounds, considering the TM8N and counterstatement:	£250
Considering the opponent's evidence: ³	£200
Official fee for filing the form TM26N:	£200
Total:	£650

51. I therefore order MANITOU BEF (Société Anonyme) to pay Kilburn & Strode LLP the sum of £650. The above sum should be paid within twenty-one days of the expiry

³ I have awarded below the scale as the cancellation applicant did not file evidence itself, nor did it comment on the opponent's evidence.

of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 25th day of March 2026

Katie Harbach

For the Registrar