

O/0263/26

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

IN THE MATTER OF UK REGISTRATION NUMBERS UK00801313639,
UK00801313051, & UK00801312137
IN THE NAME OF REDSPHER
IN RESPECT OF THE TRADE MARKS

The logo for 'Easy' features the word 'Easy' in a grey, sans-serif font. Above the letter 'y' is a stylized black icon of a person walking, with a small square above its head.

IN CLASSES 9, 35, 38, 39 AND 42

The logo for 'Easy2Trace' features the word 'Easy' in a grey, sans-serif font, followed by '2Trace' in a bold, black, sans-serif font. Above the '2' is a stylized black icon of a person walking, with a small square above its head.

IN CLASSES 9, 38, 39 AND 42

The logo for 'Easy4Pro' features the word 'Easy' in a grey, sans-serif font, followed by '4Pro' in a bold, black, sans-serif font. Above the '4' is a stylized black icon of a person walking, with a small square above its head.

IN CLASSES 9, 39 AND 42

AND

APPLICATIONS FOR REVOCATION THEREOF UNDER NUMBERS
CA000507672, CA000508098 AND CA000508099 RESPECTIVELY
BY KILBURN & STRODE LLP

BACKGROUND AND PLEADINGS

1. The trade marks shown on the cover page of this decision (“the Contested Marks”) stand in the name of REDSPHER. (“the Registered Proprietor”). The details of the marks are as follows:

UK Registration no. UK00801313639 (“The ‘639 mark”)



Filing date: 14 June 2016

Registration date: 03 December 2018

Registered for the goods and services set out in **Annex 1**

UK Registration no. UK00801313051 (“The ‘051 mark”)



Filing date: 09 June 2016

Registration date: 03 December 2018

Registered for the goods and services set out in **Annex 2**

UK Registration no. UK00801312137 (“The ‘137 mark”)



Filing date: 09 June 2016

Registration date: 03 December 2018

Registered for the goods and services set out in **Annex 3**

2. On 15 August 2024, Kilburn & Strode LLP (“the Applicant”) sought revocation of the ‘639’ mark, in its entirety, for non-use under section 46(1)(a) and 46(1)(b) of the Trade Marks Act 1994 (“the Act”). On 22 November 2024, the Applicant also sought revocation of the ‘051’ and ‘137’ marks on the same grounds.

3. The period in respect of which non-use is claimed under the section 46(1)(a) ground for all revocations is 04 December 2018 – 03 December 2023, with an effective revocation date of 04 December 2023. Under the section 46(1)(b) ground, the relevant period in respect of the '639' mark is 15 August 2019 – 14 August 2024, with an effective revocation date of 15 August 2024. As for the '051' and '137' marks, the relevant period under section 46(1)(b) is 22 November 2019 – 21 November 2024 with an effective revocation date of 22 November 2024.
4. The Registered Proprietor filed a counterstatement denying the claims made by the Applicant, but only in respect of those goods and services that have not been struck through in the Annexes of my decision. The consequence of this is that, regardless of the outcome of my decision, the Registered Proprietor's marks will be revoked (from the earliest sought revocation dates) for those goods and services that are struck through.
5. The proprietor filed evidence with their TM8N in relation to the '051' and '137' marks. During the evidence rounds the proprietor filed evidence in relation to the '639' mark and the Applicant filed written submissions.
6. The Cancellation Applicant represented themselves during these proceedings, the proprietor was represented by Neomark Sàrl. Neither party requested a hearing and only the Cancellation Applicant filed written submissions in lieu. This decision is taken following a careful consideration of all the papers.
7. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Trade Marks Act relied on in these proceedings are derived from an EU Directive. This is why these proceedings continue to make reference to the trade mark case-law of EU courts.

EVIDENCE AND SUBMISSIONS

8. As set out above, the Proprietor filed evidence with its TM8Ns in respect of the '137' and '051' marks. This came in the form of two witness statements in the name of Ignacio Tirado, dated 8 and 15 January 2025, respectively. Mr Tirado is the Managing Director of EASY4PRO, which is confirmed as being part of the Redspher Group. These statements were accompanied by 22 exhibits (labelled 1IT1 to 1IT22 ¹) and 6 exhibits (labelled 2IT1 to 2IT6), respectively.
9. In respect of the '639' mark, the Proprietor filed an additional witness statement in the name of Ignacio Tirado, dated 10 December 2024. It was accompanied by 16 exhibits (labelled 3IT1 – 3IT16).
10. The Applicant filed written submissions, dated 3 July 2024.

DECISION

Statutory provisions

11. The relevant provisions of section 46 of the Act are as follows:

“(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;

¹ The evidence exhibits were originally all labelled identically e.g. IT1, IT2 etc. I have renamed them as above so as to be able to clearly distinguish the separate evidence filed in each case.

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

[...]

(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.”

12. Section 100 of the Act 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.”

RELEVANT CASE LAW

13. 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 C-40/01 *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 Bundervsvereinigung 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 Merken 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].”

14. In *Awareness Limited v Plymouth City Council*, Case BL O/236/13, Mr Daniel Alexander QC (as he then was) as the Appointed Person stated that:

“22. The burden lies on the registered proprietor to prove use. [...] However, 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 (which in many cases will be the Hearing Officer in the first instance) 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.”

15. In *Dosenbach-Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd*, Case BL O/404/13, Mr Geoffrey Hobbs QC (as he then was) as the Appointed Person stated that:

“21. The assessment of a witness statement for probative value necessarily focuses upon its sufficiency for the purpose of satisfying the decision taker with regard to whatever it is that falls to be determined, on the balance of probabilities, in the particular context of the case at hand. As Mann J. observed in *Matsushita Electric Industrial Co. v. Comptroller-General of Patents* [2008] EWHC 2071 (Pat); [2008] R.P.C. 35:

[24] As I have said, the act of being satisfied is a matter of judgment. Forming a judgment requires the weighing of evidence and other factors. The evidence required in any particular case where satisfaction is required depends on the nature of the inquiry and the nature and purpose of the decision which is to be made. For example, where a tribunal has to be satisfied as to the age of a person, it may sometimes be sufficient for that person to assert in a form or otherwise what his or her age is, or what their date of birth is; in others, more formal proof in the form of, for example, a birth certificate will be required. It all depends who is asking the question, why they are asking the question, and what is going to be done with the answer when it is given. There can be no universal rule as to what level of evidence has to be provided in order to satisfy a decision-making body about that of which that body has to be satisfied.'

22. When it comes to proof of use for the purpose of determining the extent (if any) to which the protection conferred by registration of a trade mark can legitimately be maintained, the decision taker must form a view as to what the evidence does and just as importantly what it does not '*show*' (per Section 100 of the Act) with regard to the actuality of use in relation to goods or services covered by the registration. The evidence in question can properly be assessed for sufficiency (or the lack of it) by reference to the specificity (or lack of it) with which it addresses the actuality of use."

16. What I take from this case law is that there is no requirement to produce any specific form of evidence, but that I must consider what the evidence as a whole shows me and whether on this basis I can reasonably be satisfied on the balance of probabilities that there has been genuine use of the marks.
17. I also bear in mind the Court of Appeal's decision in *Laboratoire de la Mer Trade Mark* [2006] FSR 5. Neuberger LJ (as he then was) stated that:

“48. I turn to the suggestion, which appears to have found favour with the judge, that in order to be “genuine”, the use of the mark has to be such as to be communicated to the ultimate consumers of the goods to which it is used. Although it has some attraction, I can see no warrant for such a requirement, whether in the words of the directive, the jurisprudence of the European Court, or in principle. Of course, the more limited the use of the mark in terms of the person or persons to whom it is communicated, the more doubtful any tribunal may be as to whether the use is genuine as opposed to token. However, once the mark is communicated to a third party in such a way as can be said to be “consistent with the essential function of a trademark” as explained in [36] and [37] of the judgment in *Ansul*, it appears to me that genuine use for the purpose of the directive will be established.

49. A wholesale purchaser of goods bearing a particular trademark will, at least on the face of it, be relying upon the mark as a badge of origin just as much as a consumer who purchases such goods from a wholesaler. The fact that the wholesaler may be attracted by the mark because he believes that the consumer will be attracted by the mark does not call into question the fact that the mark is performing its essential function as between the producer and the wholesaler.”

18. I also note Mr Alexander Q.C.’s (as he then was) comments in *Guccio Guccio SpA v Gerry Weber International AG*, Case BL O/424/14. He stated:

“The Registrar says that it is important that a party puts its best case up front – with the emphasis both on “best case” (properly backed up with credible exhibits, invoices, advertisements and so on) and “up front” (that is to say in the first round of evidence). Again, he is right. If a party does not do so, it runs a serious risk of having a potentially valuable trade mark right revoked, even where that mark may well have been widely used, simply as a result of a procedural error. [...] The rule is not just “use it or lose it” but (the less catchy, if more reliable) “use it – **and file the best evidence first time round** – or lose it”” [original emphasis]

FORMS OF THE MARKS

19. Before I move on to assess the sufficiency of the evidence, I shall begin by addressing the way in which the contested mark has been displayed in relation to the relevant goods and services in evidence.

The '639' mark

20. The Registered Proprietor submits that in this case, use of the following two signs is equivalent to use of the 639 (Easy) mark as it does not alter the distinctive character. Additionally, it states that in the signs below the word 'Easy' along with the figurative element representing a silhouette are the dominant and distinctive parts, while the colours, '4Pro' and 'by redspher' are decorative and secondary elements:

Variant 1: The logo for Variant 1 features the word "Easy" in orange, a stylized blue and orange human silhouette, and "4Pro" in blue. Below this, the text "by redspher" is written in a smaller, grey font.

Variant 2: The logo for Variant 2 features the word "Easy" in orange, a stylized blue and orange human silhouette, and "4Pro" in blue.

21. On this point, I refer to the case of *Colloseum Holdings AG v Levi Strauss & Co.*, Case C-12/12 which sets out that use of one mark with, or as part of, another mark is acceptable use of the mark as registered so long as the mark continues to be perceived as indicative of the origin of the goods or services. In the present case, while I appreciate that the 639 mark appears within the variants shown above, the addition of the '4Pro' element creates a distinct unitary mark. I say this because, overall, the variants have altered the meaning of 'Easy' so that it conveys an overall message of 'easy for pro' indicating goods/services aimed at professionals. As such, I find that 'Easy4Pro' as a whole will be the indicator of origin as opposed to just 'Easy'. Therefore, I do not consider that the 639 mark retains its role as being indicative of origin for

the goods and services offered. Therefore, it is not use of the mark as registered.

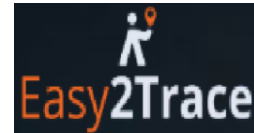
22. Moreover, it is well established that only variations which do not alter the distinctive character of a registered mark can be considered acceptable. In this case, 'Variant 2' introduces the additional and highly prominent verbal element '4Pro,' as well as a stylised figure holding a square device. The term '4Pro' suggests that the goods and services are intended for professionals, and when combined with the word 'Easy', creates a unified meaning, namely, products and services that are easy to use and designed for professionals. This modifies the distinctive character of the mark. 'Variant 1' is identical to 'Variant 2' but further includes the prominent and distinctive wording 'by redspher'. These elements significantly alter the overall impression when compared with the registered mark. The differences between the signs are therefore substantial and change the core distinctive character of the registered mark.
23. As I have concluded that the above variants cannot be relied upon to demonstrate genuine use of the '639' mark, coupled with the fact that the '639' mark itself has not been shown in any of the evidence, it follows that the Registered Proprietor has failed to demonstrate genuine use of Registration UK00801313639. Consequently, UK00801313639 is revoked for all of the goods and services for which it is registered, with an effective revocation date of 04 December 2023.

The '051' mark

24. The Registered Proprietor again submits that the following variant is acceptable for the purposes of demonstrating genuine use of its registered 051 mark.



25. Additionally, the evidence also shows use of the mark in the following forms:



26. Having considered the evidence, I find that the versions shown above represent acceptable variants of the registered mark for the purpose of establishing genuine use. The differing use of colour does not change the overall distinctive character of the mark and so the above examples of use are plainly acceptable.
27. Further, the evidence also shows use of the words 'Easy2Trace' in standard font. In my view, the dominant and distinctive element of the registered mark is the combined words 'Easy2Trace', with the stylisation and device making only a small contribution. Again, considering the case law above, I find that the distinctive character of the registered '051' mark has not been altered and so this is also an acceptable variant.

The '137' mark

28. As above, the Registered Proprietor submits that the variant shown below constitutes an acceptable variant for the purposes of demonstrating genuine use of the registered mark.

Variant 1:



29. Having again considered the evidence in light of the principles set out in *Colloseum*, I find that the above constitutes use of the '137' mark as registered. This is because the '137' mark appears as a whole in the example given above and whilst it includes another mark, the 'Easy4Pro' brand is still indicative of the origin of the goods and services shown in evidence. For example, 'Easy4Pro' will be viewed as a sub-brand of 'redspher'. Despite it being viewed in this way, it is still a valid indicator of origin. As a result, I find that the two variants shown above are acceptable and can be relied upon to demonstrate genuine use.

ASSESSMENT OF THE EVIDENCE

30. I will begin by assessing the evidence for the '051' mark. I note the following from the Proprietor's evidence by way of the witness statement of Mr Tirado and exhibits IT1- IT6:

- Exhibit IT1 contains screenshots of the Google Play app store showing that an application (app) is available to download bearing the mark. It states that the app was first released on 6 September 2011 and has been updated as recently as 16 May 2024. It also shows that it has been downloaded 10,000 times since its release.
- Exhibit IT2 consists of screenshots showing active UK users of the app between 01 January 2019 – 31 December 2020 – 510 users, 01 January 2021 – 31 December 2022, 414 users, and 01 January 2023 – 31 December 2024, 294 users.
- Exhibit IT3 consists of screenshots of the Proprietor's website using the internet archive 'waybackmachine', dated 19 April 2021. The webpages describe the features of 'Easy2Trace' as broadly relating to the tracking of shipments.
- Exhibit IT4 is an extract from the Proprietor's company details from the Luxembourg Business Register that, the Proprietor states, outlines its corporate purpose. It is presented in French with an English translation listing the kind of activities/services it provides, for example, *'Providing services to businesses, industries, banks, and individuals'* and *'Road transport of goods and leasing of goods, with or without a driver'*.

- Exhibit IT5 consists of a user manual relating to the app, dated February 2021, and demonstrates the features of the app.
- Exhibit IT6 consists of screenshots of third-party websites referring to the app, again listing its features. The screenshots are largely undated with the exception of one being dated 30 December 2020.

31. I remind myself that an assessment of genuine use is a global assessment, which involves looking at the evidential picture as a whole, not whether each individual piece of evidence shows use by itself. Taking all of the above into account, the evidential picture suggests that there has been some use of the 'Easy2Trace' mark in the UK. Exhibit IT2 indicates that for the period spanning 01 January 2019 – 31 December 2024 the Proprietor's app had active users in the UK, though these numbers appeared to decline over the years from 510 to 294. The evidence also includes screenshots from the Google Play app store where it shows the app had been downloaded over 10,000 times since its release on 6 September 2011. However, there is no evidence to show how many of these downloads occurred in the UK within the relevant period. In fact, these download figures have not been broken down in any way at all.

32. Nevertheless, the authorities stipulate that not every commercial use of a mark may automatically be deemed to constitute genuine use. The Proprietor has provided no details of the size of the relevant markets or any evidence as to the shares of the same held by the 'Easy2Trace' app. It has also failed to provide any turnover figures, any examples of promotional materials or efforts to promote the app, any information relating to advertising expenditure during the period, no invoices from customers demonstrating sales of the Proprietor's goods and services. This is evidence that ought to have been readily available to the Proprietor. Broadly speaking, the Proprietor's evidence relates to the features of its app. It consists mainly of user manuals, screenshots of its own website describing the features of its app, as well as a few 3rd party websites doing the same. There is no evidence to demonstrate how many of user manuals

were disseminated at all, let alone to UK customers, nor is there any evidence that shows how many views the Proprietor's website had had during the relevant period. Further, the reliance of the Proprietor on exhibit IT4, being the extract from the Luxembourg business register, is also flawed. Whilst at a high level it describes the types of services and activities the Proprietor provides, there is no additional evidence to support that any of the listed activities or services were actually provided by the Proprietor during the relevant period in the UK.

33. Although I do not doubt that some commercial activity was conducted in the UK in connection with 'Easy2Trace', it is my view that the evidence provided is insufficiently solid or specific to meet the requisite standard of proof. Following a careful consideration of the evidence in its entirety, I am not satisfied that the Proprietor has demonstrated genuine use of its mark in the UK for any of the goods and services for which it is registered for either of the relevant periods.

34. I turn now to consider the evidence relating to the '137' mark. I note the following from the Proprietor's evidence by way of the witness statement of Mr Tirado and exhibits IT1- IT22:

- Exhibits IT1, IT5, IT6 consist of screenshots of the Proprietor's '.com' website over the years 2021, 2022, 2023 and 2024 using the internet archive 'waybackmachine'. The webpages describe the Proprietor's product/service as an 'online platform for transport procurement', and 'A one-stop shop for all transport modes, from procurement to tracking until invoicing'. Exhibit IT5 is a screenshot of the Proprietor's website stating that it provides consulting services, dated 27 June 2022. Exhibit IT6 shows a screenshot of a search field on the Proprietor's website where clients can search for third-party carriers and logistic services, though this is undated.

- Exhibit IT2 is a screenshot showing that the Proprietor has owned the domain name 'Easy4Pro.com' since 09 July 2015.
- Exhibit IT3 consists of screenshots showing active UK users of the Proprietor's website between 12 September 2023 – 12 September 2024. It shows that in this period the online platform had 112 active users from the UK
- Exhibit IT4 is an extract from the Proprietor's company details from the Luxembourg Business Register that, the Proprietor states, outlines its corporate purpose. It is presented in French with an English translation listing the kind of activities/services it provides, for example, *'Providing services to businesses, industries, banks, and individuals'* and *'Road transport of goods and leasing of goods, with or without a driver'*.
- Exhibit IT7 contains screenshots of various screens of the online platform showing the mark in use. The 'login' page is dated 27 June 2019. Exhibit IT13 shows screenshots of the shipment details page of the online platform showing a shipment from Cheshire, UK to Assenede, Belgium dated April 2022.
- Exhibit IT8 is a screenshot showing the number of shipments to the UK using the online platform there have been. There is a headline figure of 12,041 shipments amounting to €17,180,688 having been spent
- Exhibits IT9 and IT10 contains an example of user manuals, dated August 2024 which demonstrates the functionality of the online platform, as well and screenshots of videos that assist the user in utilising the online platform's features. Exhibit IT11 is an example of an email containing login credentials sent to a client who has purchased access to the online platform.

- Exhibit IT12 consists of screen shots relating to the Proprietors gross revenue for 2019 – Nov 2024. Below is an extract from the evidence showing the gross revenue generated relating to the 'Easy4Pro' platform.

BusinessUnit	GlobalAccount	2024
Total		151 685 564
FLASH		97 205 222
CORP		20 060
FRAN		4 737 842
E2G		18 137 120
UPL		9 946 652
E4P		8 065 737
DIGI		0
GROUP		0
XGUT		13 572 931

BusinessUnit	GlobalAccount	2019	2020	2021	2022	2023
Total		248 720 590	194 339 458	213 625 952	213 876 707	182 352 379
FLASH		170 606 573	132 404 795	147 517 195	143 057 762	124 937 539
CORP		7 280	6 954	4 246 429	96 420	36 584
FRAN		1 300 836	346 078	575 674	742 699	866 890
E2G		34 580 754	25 779 306	22 075 196	21 248 144	17 130 378
UPL		10 922 420	11 095 339	11 845 605	11 649 841	10 984 388
E4P		845 348	943 694	914 769	1 218 898	5 941 023
DIGI		16 836	12 576	10 735	6 347	8 868
GROUP		0	0	0	0	0
XGUT		30 440 543	23 750 715	26 440 349	35 856 596	22 446 710

- Exhibit IT14 consists of copies of invoices addressed to UK clients. There are 11 separate invoices, addressed to 5 different UK clients spanning the five-year period 2019-2024. The total value of the invoices amounts to €2,548.76. The Proprietor confirms in its witness statement that this is a 'selection of invoices'.
- Exhibit IT15 contains screenshots of the Google Play and Apple app stores showing that an application is available to download. It states that the app was first released on 15 February 2024 and shows that it has been downloaded 100 times on the Google Play app store. There are no download figures provided for the Apple app store and also no indication of how many of the downloads from the Google Play store were from consumers in the UK.

- Exhibit IT16 consists of screenshots from a website called GitHub which, according to the Proprietors witness statement, is a web-based platform for software development, software version control and collaboration. The Proprietor states that this demonstrates that the app was in preparation before its release in 2024.
- Exhibit IT17 consists of screenshots of the Proprietors Facebook and LinkedIn pages. They show that the Facebook page has 351 likes and 41 followers, and the LinkedIn page has 5093 followers. There is no indication as to how many of the followers originate from the UK.
- Exhibit IT18 consists of screenshots of third-party websites, only one of which uses a '.co.uk' domain, referring to the app, again listing its features. The screenshots are largely undated with the exception of a few dated 16 March 2022, 29 October 2022 and 25 May 2022.
- Exhibit IT19 consist of email exchanges between the Proprietor and potential UK clients regarding the implementation of its online platform. Whilst these emails are dated within the relevant period, there is no evidence to demonstrate if any sales materialised from these exchanges.
- Exhibit IT20 is an undated screenshot showing a number of the Proprietor's UK based clients. There are 24 rows shown in the spreadsheet with a total number of 15 clients shown due to duplication of some of the client names.

- Exhibit IT21 consists of an 'offer' package dated December 2022 which was sent to a client with customization options for their specific requirements relating to the online platform. There is no evidence to demonstrate if this offer was taken up by the client.
- Exhibit IT22 is a copy of an 'Easy4Pro' terms and conditions agreement between the Proprietor and a UK client. It is dated 19th of November 2020.

35. Having reviewed the evidence in its entirety, I remind myself that the assessment of genuine use is a global one and does not depend on whether each individual item of evidence demonstrates use in isolation. When considered collectively, the evidence indicates that the 'Easy4Pro' mark has been used to some extent in the UK. Exhibit IT3 shows that between 12 September 2023 and 12 September 2024 the Proprietor's app had 112 active users in the UK. The evidence also contains a small number of invoices, totalling €2,548.76, issued to five UK-based clients.
36. Additionally, although exhibit IT8 appears to show 12,041 shipments made to the UK through the Proprietor's app, with a value of €17,180,688, it is unclear whether this figure represents revenue received by the Proprietor or the total amount spent by platform users on shipping services. The evidence and witness statement provide no clarification on this point. Moreover, no dates are given for these shipment figures, making it uncertain whether they fall within the relevant period or represent the cumulative number of UK shipments made through the platform at any time.
37. Nevertheless, the case law makes clear that not every instance of commercial use will automatically amount to genuine use. The Proprietor has provided no information regarding the size of the relevant markets, nor any evidence of the market share held by the 'Easy4Pro' app. Furthermore, although the Proprietor has submitted gross revenue figures for the app which, on their face, appear significant, there is no indication of what proportion of this revenue, which is

reported in Euros, derives from UK sales. When these figures are considered alongside the limited, UK-specific invoice evidence, they suggest that UK sales constitute only a minute proportion of the overall revenue. Furthermore, the Proprietor claims that they offer goods and services spanning classes 09, 39, and 42, covering goods ranging from software, to services including transport, storage, packaging, freight brokerage and computer programming. It is not clear from the evidence what of these services, if any, are provided through the proprietor's platform. That being the case, it is difficult to establish from the revenue figures provided, from which goods and services the money has been generated. The Proprietor has made no attempt to demonstrate how the revenue figures can be apportioned to the relevant goods and services. On this point, I remind myself of the comments of Phillip Johnson, sitting as the Appointed Person, in *Eros Bodyglide* (BL O/0984/25)² that articulation of revenue is important in establishing genuine use when a party is seeking to prove use across a full range of goods and services.³

38. Furthermore, there is a notable absence of promotional materials, and the evidence does not demonstrate any efforts by the Proprietor to market its app in the UK. There is also no information regarding advertising expenditure during the relevant period; material that the Proprietor should reasonably have been able to provide.
39. Overall, the Proprietor's evidence focuses predominantly on describing the app's features. It includes user manuals outlining those features, screenshots of its own '.com' website, use of which does not suggest it is specifically targeted at UK customers, and a small number of third-party websites doing the same. Additionally, there is no evidence showing how many user manuals were distributed, if any, or whether any reached UK customers. Nor is there evidence indicating the number of views the Proprietor's website received from UK customers during the relevant period.

² See paragraphs 26-28.

³ Whilst Professor Johnson's comments related to goods only, the principle equally applies to services.

40. The Proprietor's reliance on exhibit IT4, an extract from the Luxembourg business register, is also problematic. While the register provides a high-level description of the types of services and activities the Proprietor is authorised to provide, there is no corroborating evidence demonstrating that any of these activities or services were actually carried out by the Proprietor.
41. Although I do not dispute that some commercial activity took place in the UK in connection with the 'Easy4Pro' mark, the evidence submitted is, in my view, neither sufficiently robust nor sufficiently specific to satisfy the required standard of proof. Having carefully assessed the evidence as a whole, I am not persuaded that the Proprietor has demonstrated genuine use of its mark in the UK for any of the goods or services for which it is registered during either of the relevant periods.

OUTCOME

42. The applications to revoke the Proprietor's registrations under sections 46(1)(a) and 46(1)(b) of the Act have been successful. Subject to any appeal against this decision, The Proprietor's registrations are hereby revoked with effect from 04 December 2023.

COSTS

43. The Applicant has been successful and is entitled to a contribution towards its costs in line with the scale set out in Tribunal Practice Notice ("TPN") 1/2023.⁴ I award the Applicant the sum of **£2,900**, calculated as follows:

Official fees (x3):	£600
Preparing a statement and considering the other side's statement (x3):	£750

⁴ TPN 1/2023 applies to proceedings commenced on, or after, 1 February 2023.

Considering and commenting on the other side's evidence ⁵ :	£1,200
Preparing submissions in lieu:	£350
Total:	£2,900

44. I therefore order Redspher to pay Kilburn & Strode LLP the sum of **£2,900**. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the final determination of the appeal proceedings.

Dated this 26th day of March 2026

Oliver Rose'Meyer
For the Registrar

⁵ I have reduced the award here due to the duplication of evidence in the proceedings.

Annex 1

- Class 09 ~~Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic recording media, sound recording disks; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; software; software programs; software for commercial use; downloadable computer software applications; application software for mobile telephones; ~~embedded operating software~~; software for global positioning systems.~~
- Class 35 ~~Advertising; commercial business management; ~~commercial administration; office functions~~; commercial administration in the field of transport and delivery; commercial business management in the field of transport and delivery; advertising relating to transport and delivery services; administrative services in connection with provision of transportation documentation; services provided by consultants relating to commercial business management in the field of transport and delivery services; administrative services relating to management of user rights in computer networks.~~
- Class 38 ~~Telecommunications; provision of user access to platforms on the Internet; provision of access to e-commerce platforms on the Internet; provision of access to platforms on the Internet, as well as the mobile Internet; ~~telecommunication services provided via Internet platforms and portals; provision of telecommunication services for e-commerce platforms on the Internet and other electronic media~~; provision of access to software on data networks for accessing the Internet.~~

Class 39 Transport; packaging and wrapping of goods; ~~travel organization~~; transport information in the framework of tracking of transport vehicles by computer; storage, transport and delivery of goods; advisory services relating to transportation; transport and freight brokerage services; transportation logistics services; moving van transport services; provision of transport and travel information via mobile telecommunication apparatus and devices; transport information in the framework of tracking of automobile fleets using electronic navigation and locating devices; transport and delivery of goods, samples and merchandise of all kinds by road, rail and ship; transport information in the framework of tracking of freight transport vehicles by computer or via global positioning systems.

Class 42 ~~Scientific and technological services, as well as research and design relating thereto; industrial analysis and research services~~; design and development of computers; programming of software for Internet platforms; programming of software for e-commerce platforms; programming of software for information platforms on the Internet; services provided by computer engineers; design of software, computer firmware, computer hardware and computer systems; computer engineering services for database design; rental of computer software ~~and hardware~~; computer programming; services of IT specialists for displaying web images and sites on a computer server; provision of search engines for obtaining data on a global computer network.

Annex 2

- Class 09 ~~Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic recording media, sound recording disks; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; software; software programs; software for commercial use; downloadable computer software applications; application software for mobile telephones; embedded operating software; software for global positioning systems.~~
- Class 38 Telecommunications; provision of user access to platforms on the Internet; provision of access to e-commerce platforms on the Internet; provision of access to platforms on the Internet, as well as the mobile Internet; telecommunication services provided via Internet platforms and portals; provision of telecommunication services for e-commerce platforms on the Internet and other electronic media; ~~provision of access to software on data networks for accessing the Internet.~~
- Class 39 Transport; ~~packaging and wrapping of goods; travel organization;~~ transport information in the framework of tracking of transport vehicles by computer; storage, transport and delivery of goods; advisory services relating to transportation; transport and freight brokerage services; transportation logistics services; moving van transport services; provision of transport and travel information via mobile telecommunication apparatus and devices; transport information in the framework of tracking of automobile fleets using electronic navigation and locating devices; transport and delivery of goods, samples and

merchandise of all kinds by road, rail and ship; transport information in the framework of tracking of freight transport vehicles by computer or via global positioning systems.

Class 42 ~~Scientific and technological services, as well as research and design relating thereto; industrial analysis and research services; design and development of computers; programming of software for Internet platforms; programming of software for e-commerce platforms; programming of software for information platforms on the Internet; services provided by computer engineers; design of software, firmware, computer hardware and computer systems; computer engineering services for database design; rental of computer software and hardware; computer programming; services of IT specialists for displaying web images and sites on a computer server; provision of search engines for obtaining data on a global computer network.~~

Annex 3

- Class 09 ~~Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signaling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic recording media, sound recording disks; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment and computers; software; software programs; software for commercial use; downloadable computer software applications; application software for mobile telephones; embedded operating software; software for global positioning systems.~~
- Class 39 Transport; packaging and wrapping of goods; ~~travel organization;~~ transport information in the framework of tracking of transport vehicles by computer; storage, transport and delivery of goods; advisory services relating to transportation; transport and freight brokerage services; transportation logistics services; moving van transport services; provision of transport and travel information via mobile telecommunication apparatus and devices; transport information in the framework of tracking of automobile fleets using electronic navigation and locating devices; transport and delivery of goods, samples and merchandise of all kinds by road, rail and ship; transport information in the framework of tracking of freight transport vehicles by computer or via global positioning systems.
- Class 42 ~~Scientific and technological services, as well as research and design relating thereto; industrial analysis and research services; design and development of computers;~~ programming of software for Internet platforms; programming of software for e-commerce platforms;

programming of software for information platforms on the Internet; services provided by computer engineers; design of software, computer firmware, computer hardware and computer systems; computer engineering services for the design of databases; rental of computer software and hardware; computer programming; ~~services of IT specialists for displaying web images and sites on a computer server;~~ providing search engines for obtaining data on a global computer network.