

O/0421/26

TRADE MARKS ACT 1994

CONSOLIDATED PROCEEDINGS

IN THE MATTERS OF

UK TRADE MARK REGISTRATION NO. 3403096 FOR THE TRADE MARK

Easirail

UK TRADE MARK REGISTRATION NO. 3403099 FOR THE TRADE MARK

Easitread

UK TRADE MARK REGISTRATION NO. 3400688 FOR THE TRADE MARK

Easiaccess

UK TRADE MARK REGISTRATION NO. 3400676 FOR THE TRADE MARK

Easibathe

UK TRADE MARK REGISTRATION NO. 3403091 FOR THE TRADE MARK

Easifloor

UK TRADE MARK REGISTRATION NO. 3403083 FOR THE TRADE MARK

Easitrim

AND

APPLICATIONS FOR REVOCATION THEREOF

UNDER NUMBERS 508536, 508538, 508539, 508540, 508541 AND 508542

BACKGROUND AND PLEADINGS

1. On 27 February 2025, Kilburn & Strode LLP (“the cancellation applicant”), filed applications to revoke six UK trade marks in the name of Easibathe Limited (“the proprietor”), as set out below, on the grounds of non-use under sections 46(1)(a) and (b) of the Trade Marks Act 1994 (“the Act”).¹

- i. UKTM no. 3403096
 (“the 096 mark”)
 Easirail
 Filed on 30 May 2019; registered on 18 October 2019, for goods in class 6

- ii. UKTM no. 3403099
 (“the 099 mark”)
 Easitread
 Filed on 30 May 2019; registered on 18 October 2019, for goods in classes 6 and 19

- iii. UKTM no. 3400688
 (“the 688 mark”)
 Easiaccess
 Filed 20 May 2019; registered on 9 August 2019, for goods/services in classes 6, 19 and 37

- iv. UKTM no. 3400676
 (“the 676 mark”)
 Easibathe
 Filed 20 May 2019; registered on 9 August 2019, for goods/services in classes 11, 19, 20, 37 and 42

- v. UKTM no. 3403091
 (“the 091 mark”)
 Easifloor

¹ The specifications for each mark are set out in full in Annex 1 attached to this decision.

Filed on 30 May 2019; registered on 18 October 2019, for goods in classes 11 and 19

vi. UKTM no. 3403083

("the 083 mark")

Easitrim

Filed on 30 May 2019; registered on 16 August 2019, for goods in class 11

2. Under section 46(1)(a) the cancellation applicant claims non-use in each of the five-year periods following the date on which each mark was registered and under section 46(1)(b) further periods of non-use, all the dates of which are set out in the following table:

Mark		Periods 46(1)(a) and (b)
'096 mark	Easirail	<u>46(1)(a)</u> 19 October 2019 to 18 October 2024; Effective revocation date: 19 October 2024. <u>46(1)(b)</u> 27 February 2020 to 26 February 2025; Effective date of revocation 27 February 2025.
'099 mark	Easitread	<u>46(1)(a)</u> 19 October 2019 to 18 October 2024; Effective revocation date: 19 October 2024. <u>46(1)(b)</u> 27 February 2020 to 26 February 2025; Effective date of revocation 27 February 2025.
'688 mark	Easiaccess	<u>46(1)(a)</u> 10 August 2019 to 9 August 2024; Effective revocation date: 10 August 2024. <u>46(1)(b)</u> 27 February 2020 to 26 February 2025; Effective date of revocation 27 February 2025.
'676 mark	Easibathe	<u>46(1)(a)</u> 10 August 2019 to 9 August 2024;

		Effective revocation date: 10 August 2024 <u>46(1)(b)</u> 27 February 2020 to 26 February 2025; Effective date of revocation 27 February 2025.
'091 mark	Easifloor	<u>46(1)(a)</u> 19 October 2019 to 18 October 2024; Effective revocation date: 19 October 2024. <u>46(1)(b)</u> 27 February 2020 to 26 February 2025; Effective date of revocation 27 February 2025.
'083 mark	Easitrim	<u>46(1)(a)</u> 17 August 2019 to 16 August 2024; Effective revocation date: 17 August 2024. <u>46(1)(b)</u> 27 February 2020 to 26 February 2025; Effective date of revocation 27 February 2025.

3. The proprietor filed a defence and counterstatement in each of the proceedings, defending use of each of its trade marks in the periods claimed.

REPRESENTATION

4. Both the proprietor and the cancellation applicant are self-represented. Only the proprietor filed evidence in these proceedings, and this will be summarised to the extent that it is considered appropriate. No hearing was requested, however, the proprietor filed written submissions in lieu of a hearing. This decision is taken following a careful consideration of the papers filed.

RELEVANCE OF EU LAW

5. 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.

EVIDENCE AND SUBMISSIONS

6. The proprietor filed evidence in the form of six witness statements (one for each application), each containing exhibits. The witness statements are all made by Paul Pattinson, who is the managing director of Easibathe Limited. The facts in these statements come from Mr Pattinson's personal knowledge the records of the company.

7. The proprietor also filed written submissions in lieu of a hearing dated 18 July 2025.

8. Given the overlap in the issues to be determined in these consolidated proceedings, I shall summarise the various witness statements to the extent they are necessary when dealing with the relevant parts of the proceedings to which the evidence relates. Suffice to say I have taken into account all the material filed by both parties in coming to my decision but shall only refer to the salient points as appropriate.

LEGISLATION

9. 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.”

10. 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.”

GENERAL PRINCIPLES

11. 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 Bunderversvereinigung 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].”

12. 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), sitting as the Appointed Person stated that:

“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.”

13. 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 be satisfied on the balance of probabilities that there has been genuine use of the contested marks.

EVIDENCE OF USE

The 096 mark

14. In Mr Pattinson's witness statement of the 20 March 2025, he states as follows:

- a. The 'Easirail' mark has been consistently used since 2012 to describe a handrail system which is "complementary in function and aesthetics to the Easiaccess Modular Ramp System"². The product is sold and installed throughout the UK.
- b. During the relevant periods, he states that turnover was £1,8251,146.10³. I consider that there must be a typographical error in this figure but accept that the turnover is in excess of £1 million.
- c. Mr Pattinson has provided a selection of invoices dated between 23 October 2019 and 27 February 2025⁴. I note the following:
 - i. Mr Pattinson states that the invoices provided represent examples of sales invoices in the years 2019-2025.
 - ii. In total, these invoices amount to £92,591.08 of sales.
 - iii. 27 invoices have been provided, and all of the invoices display Easiaccess in the header. I note that the products sold include various Easirail products.
 - iv. The invoices are made out to customers with UK addresses.
 - v. The invoices relate to a range of products within the Easirail range, including various types of handrails, posts, brackets, connectors and accessories, such as end caps.

² Witness statement of Mr Pattinson relating to the 096 mark, para 2

³ Witness statement of Mr Pattinson relating to the 096 mark, para 4

⁴ Exhibit PP1

- d. Mr Pattinson has provided screenshots illustrating the word only mark in use⁵, including:
- i. A screenshot from the proprietor's website via the "Wayback Machine" illustrating the Easirail handrail system. I note that this is dated May 2022.
 - ii. A screenshot of the proprietor's Easirail brochure via the "Wayback Machine", which is dated July 2024. This includes an image of the handrail system and a breakdown of its features and benefits.
 - iii. The current Easirail webpage, which Mr Pattinson states has been in use since 2023. This contains an image of the handrail along with options for the same (including mounts and differing lengths).
- e. Mr Pattinson states that marketing and promotion of the brand takes place via exhibitions and through printed marketing material. He confirms that this is "often done as part of a wider exercise promoting our whole access division and so it is difficult to distil isolated spend or to accurately apportion costs to the promotion of Easirail alone"⁶. I have before me a range of marketing leaflets and newsletters, which show the mark in both word-only and figurative form, as well as two invoices for printing of said leaflets at a total cost of £552.49. Both invoices fall within the relevant periods.
- f. Mr Pattinson has also provided evidence of the Easirail mark being used in word only form, both on the registered proprietor's social media, and by stockists⁷. These all fall within the relevant periods.

The 099 mark

15. In Mr Pattinson's witness statement of the 20 March 2025, he states as follows:

⁵ Exhibit PP2

⁶ Witness statement of Mr Pattinson relating to the 096 mark, para 7

⁷ Exhibits PP5 and PP6

- a. The 'Easitread' mark has been consistently used in the UK since 2010⁸ and is used to describe a surface texture for the proprietor's modular ramp system, which specifically consist of rubber ramp covers and rubber flooring⁹.
- b. The product was first formally introduced in the proprietor's August 2010 brochure¹⁰
- c. Mr Pattinson has provided screenshots illustrating the mark in use¹¹ in both word-only and figurative form, as follows:
 - i. A screenshot from the proprietor's brochure via the "Wayback Machine", which is dated April 2022. This illustrates a metal modular ramp system and varying types of surface for the same.
 - ii. A screenshot from the proprietor's website via the "Wayback Machine", dated September 2022 which shows the different type of ramp surfaces on offer including metal, rubber, GRP and tactile.
 - iii. A screenshot from the proprietor's website showing a page referencing the Easitread surface (including what it is, the benefits of using this type of surface and the fact that it is available in a range of colours) via the "Wayback Machine", dated March 2024
 - iv. A screenshot from a brochure relating to surfaces, providing information regarding the Easitread rubberised surface, dated July 2024.
- d. The proprietor confirms that screeded crumb is layered on top of their standard expanded metal mesh. The register proprietor outsourced the majority of the screeding of the frames to another company, Reno Court¹². The proprietor has provided invoices from the relevant period to illustrate their spend. Evidence has been provided from the proprietor's accounting software which shows 74 payments within the relevant

⁸ Exhibit PP1 (the 099 statement)

⁹ Witness statement of Mr Pattinson relating to the 099 mark, para 2

¹⁰ Exhibit PP1

¹¹ Exhibit PP2

¹² Previously Dual Way Court

period, which amount to £54,068.69. The proprietor states that they have spent £67,507.01 overall within the relevant period¹³.

- e. Total sales generated from the Easitread product have been £332,811.91 within the relevant period¹⁴. 36 invoices have been provided, dated between 30 July 2020 and 21 February 2025, which Mr Pattinson states are a sample of the invoices held. The invoices provided amount to £46,113.91. All of the invoices display Easiaccess in the header, and sales are made to addresses across the UK¹⁵.
- f. Mr Pattinson states that during the relevant period the proprietor has spent £134,699.33 on marketing Easiaccess and its associated products/services, and a small amount of this will have been spent on Easitread¹⁶.
- g. The mark has been used across social media platforms to advertise the product, by the proprietor¹⁷.
- h. In 2023, the proprietor purchased tools and machinery to allow them to create the Easitread platforms in-house. An invoice has been provided which illustrates that one item of machinery, the “forced action mixer” was purchased for £2,300¹⁸.

The 688 mark

16. In Mr Pattinson’s witness statement of the 20 March 2025, he states as follows:

- a. The Easiaccess mark has been consistently used since 2001, following:

“success providing specialist bathroom adaptations, a gap in the market was spotted to provide associated and wider ramp access solutions and so Easiaccess was born, a logical extension to the easibathe brand and trademark which has gained recognition throughout our industry.¹⁹”

¹³ Witness statement of Mr Pattinson relating to the 099 mark, para 5

¹⁴ Witness statement of Mr Pattinson relating to the 099 mark, para 6

¹⁵ Exhibit PP4

¹⁶ Witness statement of Mr Pattinson relating to the 099 mark, para 7

¹⁷ Exhibit PP5

¹⁸ Exhibit PP6

¹⁹ Witness statement of Mr Pattinson relating to the 688 mark, para 2

He goes on to state:

“We are now one of the biggest suppliers of ramp access equipment in the UK”²⁰

b. Mr Pattinson has provided a “year on year breakdown of turnover for the Easiaccess division over the relevant five year period” as follows:

- i. 2019/2020 - £5,921,434
- ii. 2020/2021 - £4,982,917
- iii. 2021/2022 - £5,046,722
- iv. 2022/2023 - £6,195,070
- v. 2023/2024 - £8,158,808
- vi. 2024 to February 2025 - £6,005,699²¹

c. Mr Pattinson states:

“A more comprehensive commentary to illustrate why these classes are accurate, alongside an approximate percentage breakdown of corresponding sales, is as follows:

a. Class 6 – we supply and install metal ramps across the breadth of the UK, whether that is selling our products to other companies to install, or us installing them directly when engaging with local authorities, housing associations and other large companies. Approximately 70% of our revenue would fall under this classification.

b. Class 19 – we are the UK distributor of a non-metallic ramp system called Excellent System which originates in Denmark. Approximately 10% of our sales is from this product range.

c. Class 37 – through the installation side of our Easiaccess division, we specify and install low level threshold doors at many properties, complementing our ramped access solutions. Approximately 20% of our revenue would fall under this classification.”²²

d. The Easiaccess mark is used across the brand, on 12 company vehicles at a cost of £350-400 per vehicle, and office buildings. It is also used on

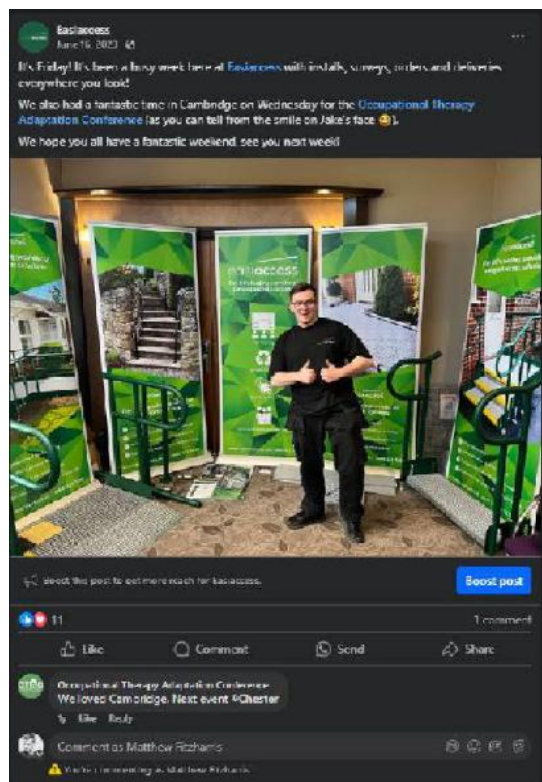
²⁰ Witness statement of Mr Pattinson relating to the 688 mark, para 7

²¹ I note that the Easiaccess financial year runs from July to June

²² Witness statement of Mr Pattinson relating to the 688 mark, para 5

staff uniform at a cost of £16,000 over the relevant period²³ (I note that this features both the Easiaccess and Easibathe marks).

- e. Mr Pattinson has confirmed that the mark is marketed as follows:
 - i. Attending multiple exhibitions and showcase events across the country. ‘Dealer days’ have also been held at the proprietor’s premises in Dunston, Tyne and Wear. I have invoices before me which show that £20,353 has been spent on attending such events during the relevant periods²⁴, however, Mr Pattinson states that “during the relevant period we have spent £67,875.68 on such events”. I also have photographs of Easiaccess promotional materials set up at such events and advertised via the Easiaccess Facebook page from within the relevant periods which show the mark in both its figurative and word-only form:



- ii. The brand is active across social media, and I have evidence before me from various platforms such as Facebook, LinkedIn and X. The evidence illustrates both the word only mark and

²³ Exhibit PP4

²⁴ Exhibit PP5

figurative mark in use. There are also examples of handrails, mesh flooring and ramps. Mr Pattinson states that in 2021 a dedicated marketing resource was appointed to Easiaccess, and a social media influencer has also been engaged to raise awareness of part of the Easiaccess product range²⁵.

- iii. Mr Pattinson states that there has been investment in packaging of all Easiaccess products and “In total over the relevant period we have spent £7,511.37 in total on packaging related items that incorporate the Easiaccess trademark”²⁶. An example of which is as follows (highlighting by Mr Pattinson)²⁷:



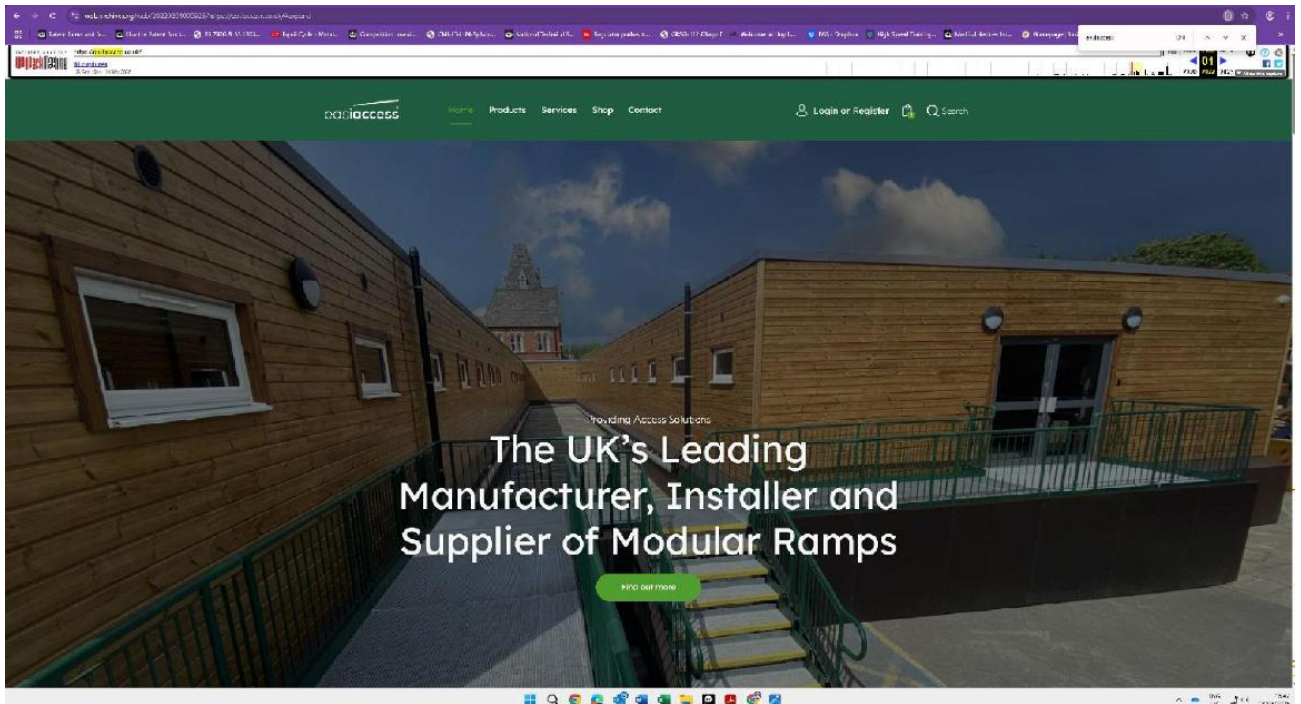
- iv. Mr Pattinson states that they have invested in the company website, www.easiaccess.co.uk and over the relevant five-year period “we have spent a total of £21,888.00 developing our online presence, whilst another £9,640.11 has been spent on Google advertising, specifically promoting the Easiaccess brand and its associated products”. I have before me an invoice for website

²⁵ Witness statement of Mr Pattinson relating to the 688 mark, para 8

²⁶ Witness statement of Mr Pattinson relating to the 688 mark, para 12

²⁷ Exhibit PP7

development at a cost of £3,090 dated 28 July 2022²⁸ along with screenshots of easiaccess on the website:



- v. Various brochures have also been in use during the relevant period, all of which bear the Easiaccess mark. Mr Pattinson states that in total, over the relevant period, £9,355.90 has been spent on print marketing²⁹. The extracts from the brochures show various types of metal ramps and steps and provide details of the products on offer³⁰.
- vi. A press article was released in April 2024 to tie in with Easiaccess's 25-year anniversary in a national publication known as THIS³¹. I note that this appears to be a trade magazine for professionals and it will therefore have a more limited audience than a generalist publication.

²⁸ Exhibit PP8

²⁹ Witness statement of Mr Pattinson relating to the 688 mark, para 15

³⁰ Exhibit PP10

³¹ Exhibit PP9.

The 676 mark

17. In Mr Pattinson's witness statement of the 20 March 2025, he states as follows:

a. Easibathe has been used consistently since 1993 and:

"is the financial entity encompassing all business under various trademarks, such as Easiaccess.

...

We have been trading consistently during this time with turnover for the bathing related departments over the relevant five year period consistently over £2,000,000. A year-on-year breakdown is as follows:

2019/2020 - £2,291,552

2020/2021 - £2,135,925

2021/2022 - £2,663,853

2022/2023 - £2,776,385

2023/2024 - £2,832,510

2024 to February 2025 - £2,134,666³²

b. A breakdown has been provided to show the work that Easibathe do which correlates with each class they have goods/services registered in:

"a. Class 11 – we supply and install mixer and electric showers to a variety of clients (especially models designed for easier/safer operation). Approximately 10% of sales.

b. Class 19 – we supply and install floor and wall coverings suited to a bathroom environment. Approximately 30% of sales.

c. Class 20 – we supply and install a variety of bathroom furniture, such as wash basins and toilets. Approximately 15% of sales.

³² Witness statement of Mr Pattinson relating to the 676 mark, paras 2 and 3

- d. Class 37 – we undertake a variety of plumbing tasks in the provision of our services, whilst also supplying associated plumbing materials to the trade across our trade counter. Approximately 45% of sales.
 - e. Class 42 – with in-house surveyors, we also undertake design services in and around bathrooms which if accepted, then lead on to installation work”.³³
- c. As above, the mark is used on company vehicles and uniform.
 - d. Easibathe have a website, www.easibathe.com which is used to sell “associated products”. There are no details as to what these products are. Mr Pattison states that over the relevant five-year period, online sales have amounted to £35,086.13³⁴. The website shows both the word-only and figurative marks.
 - e. The Easibathe brochure has been in “consistent use” since 2018.
 - f. Easibathe has also been accredited by a number of organisations over the relevant periods:

“Our certificates are displayed prominently in our offices and are supplied to our contract partners (such as local authorities and housing associations), with many often a key requirement to be awarded tendered work opportunities e.g. the Safety Schemes in Procurement accreditation”³⁵

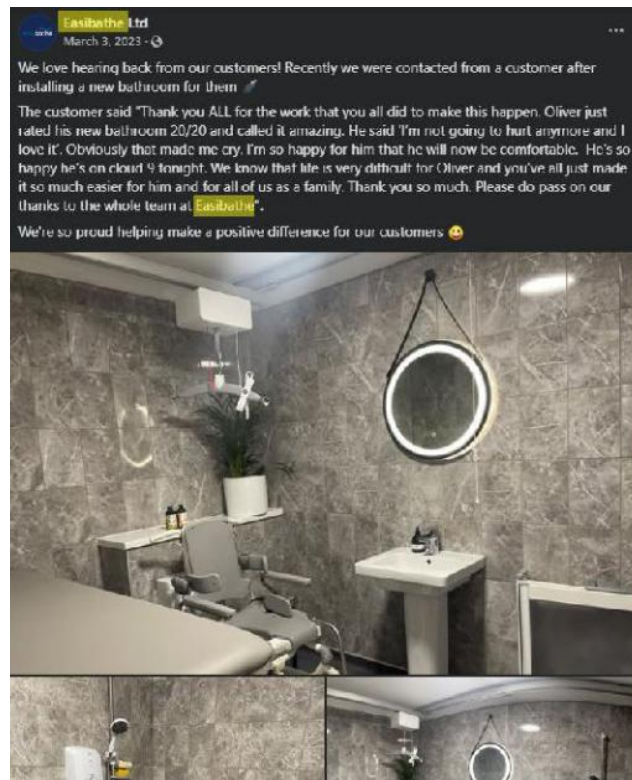
- g. In respect of the marketing of the brand, Mr Pattinson has confirmed:
 - i. The brand is active across social media, such as Facebook, LinkedIn and X. The evidence shows a variety of posts which include details about the business and the work carried out, details of sponsorship and fundraising undertaken by the company and positive customer reviews. All posts are from within

³³ Witness statement of Mr Pattinson relating to the 676 mark, para 5

³⁴ Witness statement of Mr Pattinson relating to the 676 mark, para 13

³⁵ Witness statement of Mr Pattinson relating to the 676 mark, para 15 (Certificates are also provided at Exhibit PP10)

the relevant periods and show both the word-only and figurative marks, as follows³⁶:



- ii. There is evidence of attendance at local exhibitions (I note that Mr Pattinson states that Easibathe is geographically restricted to the Northeast regarding their services) and one of these was an OTAC event in 2024³⁷. Photographs of event attendance show the use of the Easibathe banner advertising the mark, and ramps, steps and bathrooms are shown being advertised under the mark.
- iii. Easibathe was a sponsor of Newcastle United Football Club in 2022 at a cost of £2,628³⁸.
- iv. A press article was released in April 2024 to tie in with Easibathe's 25-year anniversary in a national trade publication known as THIIS³⁹.

The 091 mark

³⁶ Exhibit PP3

³⁷ Exhibit PP5

³⁸ Exhibit PP7

³⁹ Exhibit PP9.

18. In Mr Pattinson's witness statement of the 20 March 2025, he states as follows:

a. Easifloor has been consistently used since 2005 to:

"describe a wet floor former which is used to create a level access shower area. EFR is used as an abbreviation with the product code

...

3. The classes used are 11 and 19 which represent shower installations and flooring which very closely align with the functionality of the product itself. Alongside the wet floor former itself, we also launched our own 'gully' which is an injection moulded component used to form the water outlet. Maintaining the Easifloor trademark, we have referred to this as the Easifloor Gully since its launch around the same time.

4. Easifloor began as a hand laid GRP re-enforced product that was launched in 2005 and used up to around 2009. Owing to tolerance issues, tooling for a sheet moulding compound version was commissioned in around 2010 at a cost of around £50,000 to create a more robust and consistent product. However, since this time, the sector has continued to innovate and we have found our sales in more recent years to be more limited as a result"⁴⁰.

b. Over the relevant periods, Mr Pattinson states that Easifloor has a turnover of £187,709.87 which comes primarily from customers across the north of England, Northern Ireland and Scotland. 33 invoices have been provided from throughout the relevant periods and these amount to £20,564.48⁴¹. From the evidence, I can see that the goods being sold range from floor slabs, gullies, mixer bars, grab rails and WPC tanking kits.

c. Mr Pattinson has provided screenshots illustrating the mark in use:

⁴⁰ Witness statement of Mr Pattinson relating to the 091 mark, paras 2, 3 and 4

⁴¹ Exhibit PP3

- i. Screenshots from the proprietor’s website via the “Wayback Machine”. I note that these are dated October 2021⁴². The goods shown are gully and waste kits. I note that the evidence shows both the word-only and figurative marks.
 - ii. Marketing brochure illustrating the Easifloor wet floor formers and gully wastes⁴³. I note that this brochure was created in 2018 and continues to be used.
- d. A purchase order for Easifloor gully tops is provided, dated 13 April 2023. This invoice amounts to £10,367.54

The 083 mark

19. In Mr Pattinson’s witness statement of the 20 March 2025, he states as follows:

- a. “My company has been consistently using the trade mark ‘Easitrim’ since November 2009, to describe a 2-part extruded product (comprising of a ‘T-Piece’ and a ‘Skirt’), designed to provide a unique joining solution between floor and wall coverings in a wet room environment.”⁴⁴
- b. The product is manufactured by a company, A1 Plastic Extrusions (“A1”). Mr Pattinson has provided three purchase orders (raised by both A1 and Easitrim)⁴⁵ which total £14,794.80. These all fall within the relevant period. I note that the invoices are raised in the name of Easibathe Limited, which Mr Pattinson has explained (above) is the financial entity encompassing all business under various trade marks, however, the products all refer to Easitrim within their description.
- c. Mr Pattinson states that:

“Across the relevant period we have sold £66,248.36 worth of our Easitrim product. See exhibit PP4 showing report excerpts produced directly by our SAGE 50 Accounts software, from which these figures

⁴² Exhibit PP2

⁴³ Exhibit PP1

⁴⁴ Witness statement of Mr Pattinson relating to the 083 mark, para 2

⁴⁵ Exhibits PP1 and PP2

are calculated (directly from either live or archived sales data). In non-financial terms, we have sold 3671 (7342 metres) lengths of the Easitrim Skirt profile and 3798 lengths (7596 metres) of the Easitrim T-Piece profile”⁴⁶.

- d. I have a sample of 34 invoices before me which fall throughout the relevant periods. These total £26,528.53. All invoices relate to sales of Easitrim products (although I note that in some invoices, other ‘Easi’ products are sold in conjunction).⁴⁷
- e. There have been repeat customers.
- f. The company has continued to invest in research and development of the product lines. They worked alongside the Sustainable Advanced Manufacturing Project in 2023, to revise the design to improve the functionality, which was launched in 2024. To aid this, they invested in new tools at a cost of £9,264 (I note that £4,470 of this appears to relate to Easirail tools).⁴⁸ Mr Pattinson states:

“My company is now going through the final designs of some associated injection moulded parts, which it is hoped will give the product even more scope for application and attract a wider market share. Already interest in the new concept has been expressed by national companies. Importantly, the scope of the product remains the same, so class 11 would still be best suited to cover its application”.⁴⁹

- g. Mr Pattinson has confirmed that the brand is marketed as follows:
 - i. Screenshots from the proprietor’s website via the “Wayback Machine” show the word only mark in use. I note that these are dated September and October 2021⁵⁰. The goods show various types of trim and floor to wall profile.

⁴⁶ Witness statement of Mr Pattinson relating to the 083 mark, para 5

⁴⁷ Exhibit PP5

⁴⁸ Exhibit PP8

⁴⁹ Witness statement of Mr Pattinson relating to the 083 mark, para 10

⁵⁰ Exhibit PP7

- ii. Marketing brochure illustrating the Easitrim products, including the main trim and the connecting T piece⁵¹. I note that this brochure was created in 2018 and continues to be used. The brochure shows both versions of the mark in use.
- iii. Pending the updated product launch Easitrim was mentioned in the press article that was released in April 2024 to tie in with Easibathe's 25 year anniversary in a national trade publication known as THIIIS⁵².

FORM OF THE MARKS IN USE

20. Before I move on to assess the sufficiency of the evidence, I shall begin by addressing the way in which the contested marks have been used in relation to the relevant goods and services in evidence.

21. 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 *Hypen v EUIPO*, EU:T:2016:469, [30]. Secondly, where a mark contains words and a

⁵¹ Exhibit PP6

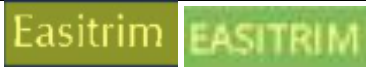

⁵² Exhibit PP9.

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.”

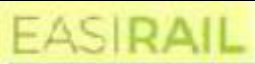

The 083 and 091 marks

The 083 mark	
The 091 mark	

22. The contested marks, above, are word only marks presented in a mixture of upper and lower case. They are presented throughout the evidence, both as they are seen

above, and in their word only form as registered. I note that the highlighting of the marks has been added by the proprietor for the purposes of the evidence. Given that normal and fair use of the registration will cover use of a word mark in any form, colour or font type, as per *La Superquimica v EUIPO*⁵³, I find that use of the above marks is use upon which the proprietor may rely.

The 096 and 099 marks

The 096 mark	
The 099 mark	

23. The contested marks, above, are word only marks presented in a mixture of upper and lower case. They are presented throughout the evidence, both as they are seen above, and in their word only form as registered. I note that the highlighting of the marks has been added by the proprietor for the purposes of the evidence. In the above presentation of the marks, half of the mark is presented in one font (italic/bold) and the other half is presented in ordinary font. The marks are also split into two colours. These changes clearly alter the marks as registered. However, in accordance with the case law set out above, I am not satisfied that such changes alter the distinctive character of the registered marks, as all of the elements of the registered marks are present and there is no alteration in meaning. As such, I find that the above are acceptable variant uses of the registered marks.

The 688 and 676 marks

The 688 mark	
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⁵³ T-24/17, EU:T:2018:668 at paragraph 39

		
The 676 mark		
		
		

24. The above marks are registered as word only marks, and the distinctiveness of the marks lies in the words as a whole. The words are presented in evidence in both their registered form and the figurative form, above. Again, half of the mark is presented in a bold font, and the other half is presented in ordinary font, as well as differing colours. The 688 mark includes a sloping line above the word ‘access’ and the 676 mark includes a wavy line above the word ‘bathe’. As per *Colloseum Holdings AG v Levi Strauss & Co.*,⁵⁴ I consider that the addition of the swoosh lines does not alter the distinctive character of the words themselves and will merely be seen as stylistic elements. As above, I do not consider that the changes alter the distinctive character of the registered marks, as all of the elements of the registered marks are present and there is no alteration in meaning. As such, I find that the above are acceptable variant uses of the registered marks.

GENUINE USE

25. With regard to the evidence of use submitted, I must now consider if it sufficiently demonstrates genuine use, whilst reminding myself that use does not have to be quantitatively significant to be genuine. The burden is on the proprietor to prove that it has used its marks within the relevant periods. Therefore, it was the proprietor’s

⁵⁴ Case C-12/12

responsibility to provide proof that the marks were used within the UK during the relevant periods.

26. Whether the evidence is sufficient for this purpose will depend on whether it demonstrates that there has been real commercial exploitation of the marks, in the course of trade, sufficient to create or maintain a market for the goods at issue in the UK during the relevant five-year period. In making this 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 for which use has been shown;
- The nature of those goods and the market(s) for them; and
- The geographical extent of the use shown.

27. I have carefully considered the evidence provided by the proprietor and whether this meets the requirements for genuine use as per *easyGroup*, set out earlier in this decision. I am also mindful of the guidance from the *Dosenbach-Ochsner* (as cited above) and *Awareness Limited v Plymouth City Council*⁵⁵, in which Mr Daniel Alexander Q.C. 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

⁵⁵ Case BL O/236/13

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.”

and further at paragraph 28:

“28. I can understand the rationale for the evidence being as it was but suggest that, for the future, if a broad class, such as “tuition services”, is sought to be defended on the basis of narrow use within the category (such as for classes of a particular kind) the evidence should not state that the mark has been used in relation to “tuition services” even by compendious reference to the trade mark specification. The evidence should make it clear, with precision, what specific use there has been and explain why, if the use has only been narrow, why a broader category is nonetheless appropriate for the specification. Broad statements purporting to verify use over a wide range by reference to the wording of a trade mark specification when supportable only in respect of a much narrower range should be critically considered in any draft evidence proposed to be submitted.”

The 096 mark

28. The mark has been used since 2012 in respect of a handrail system which is used alongside the Easiaccess Modular Ramp System. The mark has been used in its registered form. The evidence is that in the relevant period, the turnover was in excess of £1 million. It is clear from the evidence that the mark has been used consistently throughout the UK, during the relevant period. Whilst I do not have evidence before me of specific marketing spend in respect of this mark, I understand that marketing and promotion of the brand takes place via exhibitions and through printed marketing material, and that the marks are often advertised alongside each other at exhibitions etc, which is supported by the evidence.

29. I must now consider whether, or the extent to which, the evidence shows use of the mark in relation to the goods relied upon. In *Euro Gida Sanayi Ve Ticaret Limited*

v Gima (UK) Limited,⁵⁶ Mr Geoffrey Hobbs Q.C. (as he then was) as the Appointed Person summed up the law as being:

“In the present state of the law, fair protection is to be achieved by identifying and defining not the particular examples of goods or services for which there has been genuine use but the particular categories of goods or services they should realistically be taken to exemplify. For that purpose the terminology of the resulting specification should accord with the perceptions of the average consumer of the goods or services concerned.”

30. In *Merck KGaA v Merck Sharp & Dohme Corp & Ors* [2017] EWCA Civ 1834 the Court of Appeal set out the proper approach to partial revocation, as follows:

“245. First, it is necessary to identify the goods or services in relation to which the mark has been used during the relevant period.

246. Secondly, the goods or services for which the mark is registered must be considered. If the mark is registered for a category of goods or services which is sufficiently broad that it is possible to identify within it a number of subcategories capable of being viewed independently, use of the mark in relation to one or more of the subcategories will not constitute use of the mark in relation to all of the other subcategories.

247. Thirdly, it is not possible for a proprietor to use the mark in relation to all possible variations of a product or service. So, care must be taken to ensure this exercise does not result in the proprietor being stripped of protection for goods or services which, though not the same as those for which use has been proved, are not in essence different from them and cannot be distinguished from them other than in an arbitrary way.

248. Fourthly, these issues are to be considered having regard to the perception of the average consumer and the purpose and intended use of the products or services in issue. Ultimately it is the task of the tribunal to arrive at

⁵⁶ BL O/345/10

a fair specification of goods or services having regard to the use which has been made of the mark.

249. This approach does strike an appropriate balance. It gives effect to the clear intention of the EU legislature that marks must actually be used or, if not used, be subject to revocation. [...] It is also fair to proprietors for it does not require a proprietor to prove that he has used his mark in relation to all possible variations of the goods or services covered by its registration but only those which are sufficiently distinct to constitute coherent categories or subcategories. I am also satisfied that it gives appropriate protection to the legitimate interest of a proprietor in being able in the future to extend his range of goods or services within the scope of the terms describing the goods or services for which its mark is registered.”

31. In *Property Renaissance Ltd (t/a Titanic Spa) v Stanley Dock Hotel Ltd (t/a Titanic Hotel Liverpool) & Ors* [2016] EWHC 3103 (Ch) at [47], the late Carr J pointed out that it is not the task of the court to describe the use made by the trade mark proprietor in the narrowest possible terms unless that is what the average consumer would do; for example, in *Pan World Brands v Tripp Ltd (Extreme Trade Mark)* [2008] RPC 2 it was held that use in relation to holdalls justified a registration for luggage generally.

32. There is evidence of use for *handrails* along with their component parts, and this has been reiterated throughout the evidence. The specification includes the term *grab rails of metal*. I consider that the purpose of grab rails differs from that of handrails, as grab rails are used to assist with stability when an individual is standing, sitting, or transferring weight, whereas handrails are used as continuous support alongside stairs or ramps when a person is mobile. Therefore, the intended use of these goods would differ, and I would consider the above to be distinct categories of goods. The proprietor has provided no evidence of use of its mark in relation to *grab rails of metal*, and consequently, I do not consider that the proprietor should be entitled to rely on this term. Similarly, I find that there has been no use shown for *guide rails of metal* or *boundary rails of metal*. I consider both of these terms to have a different purpose and use to handrails. I would consider guide rails to be a barrier which runs along the side or edge of a ramp, parallel to the ramps surface, to stop wheelchair wheels, mobility

scooters and prams from slipping off the edge of the ramp. I would consider both boundary rails to be fixed metal barriers installed to define, protect, or control the edge of an area. I consider that they may mark a boundary and prevent people, vehicles, or equipment from crossing into unsafe or restricted spaces. The proprietor has not shown use of the same within their evidence, and therefore, I do not consider that it can retain this term.

33. Considering the evidence as a whole, I find that the proprietor has made genuine use of the earlier mark in the relevant periods in relation to its handrail system. With that in mind, in order to reflect the use shown in evidence, I consider a fair specification for the 096 mark to be:

Class 6 Hand rails of metal; Stair rails of metal.

The 099 mark

34. The mark has been used since 2010 in respect of rubber ramp surfaces. The sales generated within the relevant period are £332,811.91, and I note that the products are sold consistently as is evidenced by the invoices provided and there is geographical spread. The proprietor states that Easitread will have been marketed as an associated product/service under Easiaccess, which I accept, and that a small amount of the marketing spend can be attributed to Easitread.

35. From the evidence, the Easitread products include rubber surfaces for their modular ramp system. This is clear throughout the evidence. I understand *rubber flooring* to be rubber mats or tiles, the likes of which are used in gyms and schools on the floor of a room. I consider this to be different to the proprietor's rubber surfacing, which is described within the evidence as a "screeded crumb". I have no evidence before me that the ramps/metal platforms are marketed under the Easitread mark. Considering the evidence as a whole, I find that the proprietor has made genuine use of the earlier mark in the relevant periods. With that in mind, in order to reflect the use shown in evidence, I consider a fair specification for the 099 mark to be:

Class 19 Rubber surfacing.

The 688 mark

36. I am satisfied that the evidence shows that the Easiaccess trade mark has been used as registered. The revenue figures are in the millions per annum, and the proprietor has clearly taken steps to promote the products sold under its mark and to maintain a share in the market. In terms of market share, Mr Pattinson states that the proprietor is one of the “biggest suppliers of ramp access equipment in the UK”.

37. From the proprietor’s evidence, it is clear that Easiaccess products include metal ramps and doors, and this has been reiterated throughout the evidence. There is also evidence that the proprietor carries out the installation of the same, which is shown within the invoices. I note that there is no evidence of ramps made of non-metallic materials. Whilst the proprietor’s evidence is that they install low threshold doors, the purpose and intended use of the services in issue is door installation and I do not consider that the average consumer will differentiate between doors of different materials or styles. As such, I consider that the proprietor should be allowed to retain installation of doors at large. The proprietor has provided no evidence of use of its mark in relation to windows and window coverings or gates and the installation of the same. Consequently, I do not consider that the proprietor should be entitled to rely on this term.

38. Taking the evidence as a whole into account, I am satisfied that the mark has been put to genuine use during the relevant period in the UK. With the above in mind, in order to reflect the use shown in evidence, I consider a fair specification for the 688 mark to be:

Class 6 Ramps being structures of metal; Ramps of metal; Metal ramps.

Class 19 Doors made of plastic for buildings; Doors made of wood for buildings;
Doors, not of metal.

Class 27 Doors (Installation of -).

The 676 mark

39. The Easibathe mark has been used since 1993 for the supply and installation of bathrooms. During the relevant period, the mark has generated a turnover of in excess of £2 million each year. It is clear that the proprietor has taken steps to promote the products sold under its mark and to maintain a share in the market, for example by sponsoring a match at Newcastle United Football Club.

40. From the evidence, I note that the Easibathe products include electric showers and mixer showers. I note that shower screens are also contained within the evidence. The proprietor states that they “supply and install floor and wall coverings suited to a bathroom environment”, and this is shown within the evidence. However, there is no specific evidence in relation to *furniture for bathrooms*, which I would consider includes items such as vanity units and mirror cabinets, and not items such as showers, toilets and radiators, for example. As such, I do not consider that the proprietor has shown use to allow them to keep this term.

41. Within the proprietor’s evidence, they state that they “undertake a variety of plumbing tasks in the provision of our services, whilst also supplying associated plumbing materials to the trade across our trade counter. Approximately 45% of sales”. I am conscious that retail / wholesale services are proper to class 35, and therefore, 45% may not be a reliable indicator of the revenue for plumbing services. However, it is clear from the evidence before me that the proprietor consistently offers plumbing services alongside bathroom installation, as is confirmed within Mr Pattinson’s evidence and illustrated within customer reviews. I also note that the proprietor states that they carry out bathroom design. There is no evidence of turnover in relation to this, however, it is the proprietor’s evidence that plumbing services follow design services (which is not unusual for buying a bathroom). I also note that design is mentioned within some of the social media posts.

42. Taking the evidence as a whole into account, I am satisfied that the mark has been put to genuine use during the relevant period in the UK. With that in mind, in order to reflect the use shown in evidence, I consider a fair specification for the 676 mark to be:

Class 11 Showers; Electric showers; Mixer showers; Shower screens.

Class 19 Flooring materials (Non-metallic -); Flooring screeds; Tiles of ceramic for floors; Tiles of ceramic for walls; Wall boards, not of metal.

Class 37 Plumbing.

Class 42 Design of bathrooms; Planning [design] of bathrooms.

The 091 mark

43. The Easifloor mark has been used since 2005 to describe a wet floor former. I understand this to be something that is used in wet rooms for level access showering to create a gradient which directs water towards the waste. It is my understanding that this can be finished in a number of ways, i.e. with tiles or vinyl. The invoices provided also show that various sizes of floor slabs are sold by Easifloor. Over the relevant periods, Easifloor has a turnover of £187,709.87 which comes primarily from customers across the north of England, Northern Ireland and Scotland. I understand that this is because the proprietor is based in the north of England, and as such, this is where they carry out the majority of their bathroom installation work, which I accept. I note that the products are sold consistently as is evidenced by the invoices provided, and attempts have also been made to market the brand.

44. From the evidence, the proprietor's products include wet floor formers for level access showering and gully waste, to drain water from the shower floor, both of which are installed by the proprietor. I do not consider that a wet floor former is necessarily the same as a shower tray. From the evidence, I consider a wet floor former is a standalone item which is used either on top of, or below flooring, to direct the flow of water. However, I accept that this may take the form of *shower trays* and that the same is shown throughout the evidence. I consider *shower installations* to be a wide term, which includes the goods included in shower systems as a whole, such as the shower itself, shower cubicle and waste etc. I note that the proprietor's goods also include floor slabs, gullies, mixer bars, grab rails and WPC tanking kits under this mark, and

due to this, and the installation of wet floor formers which the proprietor has evidenced, I consider that the proprietor has shown use for *shower installations*.

45. Considering the evidence as a whole, I find that the proprietor has made genuine use of the earlier mark in the relevant periods. With that in mind, I consider that the 091 mark can remain as registered.

The 083 mark

46. The proprietor has been using Easitrim' since November 2009, to describe a 2-part extruded product (comprising of a 'T-Piece' and a 'Skirt'). During the relevant periods, the proprietor has sold £66,248.36. I note that this amount is quite low, however, 7342 metres of 'skirt' and 7596 metres of 'T-piece' have been sold. I also note that as per the invoices provided, the unit price of the goods ranges from £1.20 to £121, making the goods low in price, and I note that they are often purchased in bulk. Therefore, there will likely be a high volume of sales despite the lower turnover. I note that the products are sold consistently as is evidenced by the invoices provided, and attempts have also been made to market the brand.

47. The proprietor's products comprise of a trim which is used in wet rooms to keep them watertight, and this has been reiterated throughout the evidence. The proprietor's specification is for *bathroom installations* at large. I consider that this is a wide term which could include a variety of goods and is not representative of the goods for which the proprietor has shown use, which are limited. Bathroom trim is proper to class 19 and not class 11; this use cannot, therefore, assist the proprietor. As there are no other terms within the specification, and I have found that the proprietor does not have a registration for the goods they make, the proprietor has, therefore, not shown genuine use of the mark. As such, this will result in the 083 mark being revoked.

CONCLUSION

48. This application was brought under section 46(1)(a) and (b) of the Act, and I am satisfied that the proprietor has provided evidence sufficient to maintain the registrations for those aforementioned goods throughout both relevant periods (except

for the 083 registration, which will be revoked in full for the reasons set out above). The proprietor did not provide evidence of use of some of the goods/services in its 096, 099, 688, and 676 registrations, which are to be revoked from the earliest date from which revocation can take effect, which in each case is the day following the fifth anniversary of completion of the registration procedure of each mark. The 091 mark will remain as registered.

49. With effect from **19 October 2024**, UKTM no. 3403096 is partially revoked for the following goods:

Class 6 Metal rails; Boundary rails of metal; Grab rails of metal; Guide rails of metal; Metallic rails; Rails of metal.

UKTM no. 3403096 shall remain registered for the following terms:

Class 6 Hand rails of metal; Stair rails of metal.

50. With effect from **19 October 2024**, UKTM no. 3403099 is partially revoked for the following goods:

Class 6 Ramps being structures of metal; Ramps of metal; Metal ramps; Metal ramps [structures]; Platforms of metal; Platforms, prefabricated, of metal; Prefabricated metal platforms; Structural platforms [structures] of metal.

UKTM no. 3403099 shall remain registered for the following terms:

Class 19 Rubber surfacing.

51. With effect from **10 August 2024**, UKTM no. 3400688 is partially revoked for the following goods:

Class 19 Ramps being structures of non-metallic materials; Non-metallic ramps; Doors, gates, windows and window coverings, not of metal;

Class 27 Windows (Installation of -).

UKTM no. 3400688 shall remain registered for the following terms:

Class 6 Ramps being structures of metal; Ramps of metal; Metal ramps.

Class 19 Doors made of plastic for buildings; Doors made of wood for buildings; Doors, not of metal.

Class 27 Doors (Installation of -).

52. With effect from **10 August 2024**, UKTM no. 3400676 is partially revoked for the following goods/services:

Class 11 Cubicles for showers;

Class 20 Furniture for bathrooms; Furniture of plastics material for bathrooms.

UKTM no. 3400676 shall remain registered for the following terms:

Class 11 Showers; Electric showers; Mixer showers; Shower screens.

Class 19 Flooring materials (Non-metallic -); Flooring screeds; Tiles of ceramic for floors; Tiles of ceramic for walls; Wall boards, not of metal.

Class 37 Plumbing.

Class 42 Design of bathrooms; Planning [design] of bathrooms.

53. The application for revocation on grounds of non-use against the proprietor's registration UKTM no. 3403083 has been successful in its entirety. As a result, the contested registration is hereby revoked, with effect from **17 August 2024**, for all of the goods in its specification.

COSTS

8. On balance, I consider that the parties have both achieved a measure of success and I find it appropriate that each party bears its own costs.

Dated this 15th day of May 2026

LA Bailey

For the Registrar,

The Comptroller-General

Annex 1

The 096 mark

Class 6 Metal rails; Boundary rails of metal; Grab rails of metal; Guide rails of metal; Hand rails of metal; Metallic rails; Rails of metal; Stair rails of metal.

The 099 mark

Class 6 Ramps being structures of metal; Ramps of metal; Metal ramps; Metal ramps [structures]; Platforms of metal; Platforms, prefabricated, of metal; Prefabricated metal platforms; Structural platforms [structures] of metal.

Class 19 Rubber flooring.

The 688 mark

Class 6 Ramps being structures of metal; Ramps of metal; Metal ramps.

Class 19 Ramps being structures of non-metallic materials; Non-metallic ramps; Doors made of plastic for buildings; Doors made of wood for buildings; Doors, gates, windows and window coverings, not of metal; Doors, not of metal.

Class 27 Doors and windows (Installation of -).

The 676 mark

Class 11 Showers; Cubicles for showers; Electric showers; Mixer showers; Shower screens.

Class 19 Flooring materials (Non-metallic -); Flooring screeds; Tiles of ceramic for floors; Tiles of ceramic for walls; Wall boards, not of metal.

Class 20 Furniture for bathrooms; Furniture of plastics material for bathrooms.

Class 37 Plumbing.

Class 42 Design of bathrooms; Planning [design] of bathrooms.

The 091 mark

Class 11 Shower installations; Shower trays.

Class 19 Flooring (Non-metallic -); Flooring materials (Non-metallic -).

The 083 mark

Class 11 Bathroom installations.