O/0440/26

TRADE MARKS ACT 1994

IN THE MATTER OF UK REGISTRATION NUMBER UK00001561769

IN THE NAME OF LASCAR ELECTRONICS LIMITED

IN RESPECT OF THE FOLLOWING TRADE MARK

EASYLOG

IN CLASS 9

AND

AN APPLICATION FOR REVOCATION THEREOF

UNDER NUMBER CA000507815

BY KILBURN & STRODE LLP

Background and pleadings

1. Trade mark number UK00001561769 stands registered in the UK for the mark shown on the front page of this decision ("***the Contested Mark***"), in the name of Lascar Electronics Limited ("***the Proprietor***"). The Contested Mark was filed on 8 February 1994, and it was registered on 22 September 1995 for the following goods:

   Class 9 Electrical and electronic testing, measuring and monitoring apparatus and instruments; electronic monitoring apparatus; temperature monitoring apparatus; thermostatic control apparatus; computer hardware and computer software; parts and fittings for all the aforesaid goods; all included in Class 9.

2. On 20 September 2024, Kilburn & Strode LLP, ("***the Applicant***") filed the revocation action number CA000507815 against the Contested Mark in its entirety, for non-use under section 46(1)(a) and section 46(1)(b) of the Trade Marks Act 1994 ("***the Act***"). The Applicant alleges that the Proprietor has not used the Contested Mark in the United Kingdom within the five-year periods set out below:

   Section 46(1)(a): following the date of completion of the registration process, i.e. 23 September 1995 – 22 September 2000 ("***the first relevant period***"). The earliest possible revocation date is 23 September 2000.

   Section 46(1)(b):

Start dates	End dates	The earliest possible revocation dates	
20 September 2009	19 September 2014	20 September 2014	"***the second relevant period***"
20 September 2014	19 September 2019	20 September 2019	"***the third relevant period***"

20 September 2019	19 September 2024	20 September 2024	"***the fourth relevant period***"

3. In its statement of grounds, the Applicant submitted that the Contested Mark should be revoked for all the goods in accordance with sections 46(1)(a) and 46(1)(b) of the Act.

4. The Proprietor filed a defence and counterstatement[1] denying the claims made in relation all its goods and stating that, according to section 46(3) of the Act, evidence of use will be filed relating the 5-year period immediately before the filing of the revocation action at hand.

5. The Applicant is self-represented. The Proprietor is represented by Humphreys & Co.

Relevance of EU law

6. 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

7. During the evidence rounds, only the Proprietor filed evidence in the form of a witness statement of Richard Cameron, dated 4 February 2024, and accompanied by exhibit RC1. Mr Cameron is the Managing Director of the Proprietor, Lascar Electronics Limited, and he has been a Director of the Proprietor since 14 October 2009. Therefore, Mr Cameron is duly authorised to make submissions on behalf of the Proprietor.

[1] Dated 4 December 2024.

8. A hearing took place before me, by videoconference, on 14 May 2026. The Proprietor was represented by Alaina Newnes of One Essex Court. In attendance, as observers, were Tristan Morse, Ruth Annand, Jonathan Abbott, and Emma Goddard. The Applicant did not take part at the hearing. Prior to the hearing, the Proprietor filed skeleton arguments.

9. The submissions (both filed in writing and made at the hearing) will not be summarised here but will be referred to as and where appropriate during this decision. I provide a summary of the evidence below. This decision is taken following a careful consideration of the papers and of the submissions presented at the hearing.

Summary of the evidence of use

10. Mr Cameron reports that the Proprietor has been marketing a range of data recording and data logging electronic devices under the mark "EASYLOG" since its incorporation in 2005. Before that, the Proprietor's parent company (initially called "Lascar Electronics Limited", then renamed to "Larasian Limited" and subsequently renamed "Cimsese Limited" in 2022) has been marketing these goods since mid-1990s.

11. Mr Cameron states that the Proprietor has introduced the first data logging device in USB form in 2004 under the EASYLOG brand.[2] The evidence features an informative slide show on Lascar Electronics; with reference to the "EasyLog" mark, the evidence indicates that Lascar Electronics provides a wide range of data loggers that have different market applications (e.g., pharmaceutical, horticulture, food processing and handling, facility and energy management)[3] as they have numerous reading parameters and connectivity options (i.e., USB, cloud storage or WIFI connected data loggers).[4]

12. Mr Cameron reports that the Proprietor currently sells a range of 140 different devices and accessories. Mr Cameron provides a list of numerous data recording and data logging devices accompanied with a brief description.[5] The evidence

[2] Mr Cameron's witness statement dated 4 February 2025 at [5].
[3] Exhibit RC1, page 13.
[4] Exhibit RC1, page 7.
[5] Exhibit RC1, pages 23 - 25.

shows a range of data loggers, including, for example, wireless IoT data loggers (EI-IOT series), softwareless data loggers (EL-SIE series), USB data loggers (EL-USB series) and Wifi data loggers (EL-WIFI series).

13. The evidence features images of four products bearing the “EASYLOG” mark.[6] Although these images are undated, Mr Cameron confirms in his statement that these represent the best-selling products and is representative of how the devices have been marketed for at least the past 5 years (Figure 1).[7]

Figure 1 – exhibit RC1, page 27

[6] Exhibit RC1, pages 26 - 30.
[7] Mr Cameron’s witness statement at [8].

14. Mr Cameron provides data sheets for some of the Proprietor's goods (i.e., EL-USB-2, EL-IOT-SP-420, EL-GFX-D2, EL-MOTE-TP+, EL-USB-1-LCD, EL-WiFi-TH+, EL-2, EL-IP67-12, EL-1) indicating the goods' technical specifications and information.[8] The evidence is dated within the relevant periods (April 2024).

15. Mr Cameron reports that the Proprietor distributes its products both directly to consumers and via distributors. Regarding the distributors, the evidence features a table of the Proprietor's top 10 distributors (Figure 2) and a table listing further distributors in the UK (Figure 3). Regarding the direct customers, the evidence contains a table of the Proprietor's top 10 direct costumers (Figure 4).

Distributor	Location	Length of relationship	2020 sales £'000
Distributor 1	UK	Since 1980	920
Distributor 2	US	Since 2007	386
Distributor 3	UK	Since 1985	228
Distributor 4	US	Since 2002	246
Distributor 5	US	Since 2007	199
Distributor 6	UK	Since 1990	121
Distributor 7	US	Since 2012	113
Distributor 8	US	Since 1999	112
Distributor 9	US	Since 2008	97
Distributor 10	US	Since 2008	92
Total from top 10			2,513

Figure 2 – exhibit RC1, page 20

[8] Exhibit RC1, pages 31 - 47.

LASCAR ELECTRONICS - EasyLog	
Distributor Company Name	**Country**
RS Components Ltd	UNITED KINGDOM
Premier Farnell UK Ltd	UNITED KINGDOM
Rapid Electronics Ltd	UNITED KINGDOM
Glen Dimplex Medical Appliances	UNITED KINGDOM
Thermosense Ltd	UNITED KINGDOM
TC Ltd	UNITED KINGDOM
Denward Manufacturing Ltd	UNITED KINGDOM
Labfacility Ltd	UNITED KINGDOM
Kempston Controls	UNITED KINGDOM
Woodley Equipment Co. Ltd	UNITED KINGDOM
Hillcroft Surgery Supplies Ltd	UNITED KINGDOM
J.A.K Marketing Limited	UNITED KINGDOM
Preservation Equipment Ltd	UNITED KINGDOM
CoolMed Ltd	UNITED KINGDOM
Vet Direct Services Ltd	UNITED KINGDOM
ITrak Wireless	UNITED KINGDOM
Pioneer Veterinary Products	UNITED KINGDOM
NHBS Ltd	UNITED KINGDOM
Mistry Medical Supplies Ltd	UNITED KINGDOM
MidMeds Ltd	UNITED KINGDOM
ATP Instrumentation Ltd	UNITED KINGDOM
PASS Ltd	UNITED KINGDOM
Omni Instruments Ltd	UNITED KINGDOM
Isatec Ltd	UNITED KINGDOM
Instrumentation Systems & Services Ltd	UNITED KINGDOM
EnviroMon Limited	UNITED KINGDOM
Sinclair & Campbell	UNITED KINGDOM
Complete Food Safety Ltd	UNITED KINGDOM

Figure 3 – exhibit RC1, page 48

Customer	Location	Length of relationship	Main market	2020 sales £'000
Customer 1	UK	Since 2007	Oil & gas	3,558
Customer 2	UK	Since 2009	Gas sensing	2,017
Customer 3	UK	Since 2009	Medical	617
Customer 4	UK	Since 2016	Optical switching	517
Customer 5	UK	Since 2018	Environment monitoring	509
Customer 6	UK	Since 2006	Environment monitoring	410
Customer 7	US	Since 2017	UV cleaning	369
Customer 8	UK	Since 2006	Building & sanitation	346
Customer 9	UK	Since 2016	Fire safety	336
Customer 10	UK	Since 2013	Aviation lighting	306
Total from top 10				8,986

Figure 4 – exhibit RC1, page 21

16. Mr Cameron reports that the Proprietor has advertised and retailed the "EASYLOG" devices and software on its website ("www.lascarelectronics.com") since mid-1990s.[9] Accordingly, the evidence features a series of extracts from the Wayback Machine database of the Proprietor's website. Notably the evidence features:

- Extracts dated 24 April 2024 where the "EL-USB-1" (temperature data logger) and the "EL-WiFi-VACX" (vaccine monitoring) are offered for sale under the "EasyLog" mark.[10]
- A series of extracts dated between 5 August 2019 and 2 May 2024 advertising "EasyLog" data loggers and their market applications (e.g., vaccine storage, pharmaceutical cold chain, food temperature monitoring, outside environmental data).[11]

[9] Mr Cameron's witness statement at [16].
[10] Exhibit RC1, pages 50, 54 and 72.
[11] Exhibit RC1, pages 55 – 79.

- Two extracts advertising the “EasyLog” USB software and its summary report function.[12]
- One extract dated 31 December 2005 where it is stated that the Proprietor provides “EasyLog” data loggers.[13]

17. The evidence also features one extract from the Proprietor’s website dated 12 December 2003 offering for sale battery-powered data readers “to read voltage, current, temperature, humidity, pH frequency, rate count RS232 and IR interfaces”, infrared converters, Infrared transmitter/receiver, control software for “EasyLog” data loggers, Internet telemetry data logger.[14]
18. The evidence also contains one extract showing a snapshot of the Proprietor’s website dated 1999 offering for sale the control software “EL-WIN” and “EL-WIN-LITE” software to download for the “EasyLog” data loggers.[15]
19. Mr Cameron states that although the evidence only shows a few dates within the relevant periods, he confirms that the website has been live and operational throughout the whole period offering “EASYLOG” devices and software.[16]
20. The evidence shows prices in USA dollars. Mr Cameron clarifies that the website has always been accessible also from the UK with product prices shown in pounds sterling.[17] In support of this, Mr Cameron provides, as examples, screenshots of the Proprietor’s website offering for sale some “EasyLog” data loggers (i.e., the EL-USB-1, EL-USB-2-LCD, EL-USB-3, EL-USB-4, EL-WiFi-TH).[18] At the hearing Ms Newnes clarified that the evidence shows prices in USA dollars because, at the time of extracting the evidence from the Wayback Machine, the database’s default settings resulted in the evidence being showed only as it would have appeared to users from the USA. Nonetheless, it was confirmed that the website has been available also to UK consumers throughout the relevant periods.

[12] Exhibit RC1, pages 67 and 71.
[13] Exhibit RC1, page 85.
[14] Exhibit RC1, page 81.
[15] Exhibit RC1, page 80.
[16] Mr Cameron’s witness statement at [17].
[17] Mr Cameron’s witness statement at [17].
[18] Exhibit RC1, pages 115 - 119.

21. Mr Cameron provides the Proprietor's annual turnover between 2007 and 2024. The evidence contains the total global turnover as well as the turnover for the "EASYLOG" devices in the UK from both retail and wholesale.[19] For the purposes of my assessment I exclusively consider and reproduce below the total turnover deriving from the combination of retail and wholesale revenues for the "EASYLOG" devices in the UK.[20]

Sale Year	Total Easylog revenue (UK only)
2007	£406,718
2008	£465,300
2009	£531,406
2010	£695,650
2011	£837,708
2012	£892,802
2013	£1,122,089
2014	£1,282,234
2015	£1,241,469
2016	£1,340,444
2017	£1,280,633
2018	£1,425,960
2019	£1,387,169
2020	£1,343,753
2021	£1,693,220
2022	£1,341,172
2023	£1,486,560
2024	£1,666,143

[19] Exhibit RC1, page 83.

[20] At the hearing Ms Newnes confirmed that the total UK revenues derive from the sum of the retail and wholesale figures.

22. Mr Cameron also states that the evidence shows records of sales made in the UK to customers based overseas. Accordingly, the evidence reproduces a pie chart showing that, in 2020, 56.9% of the Proprietor's external sales were generated in the UK (Figure 5). Mr Cameron states that these revenues are relevant because they were generated and made in the UK.[21] This point is clarified further below in this decision at paragraph [23].

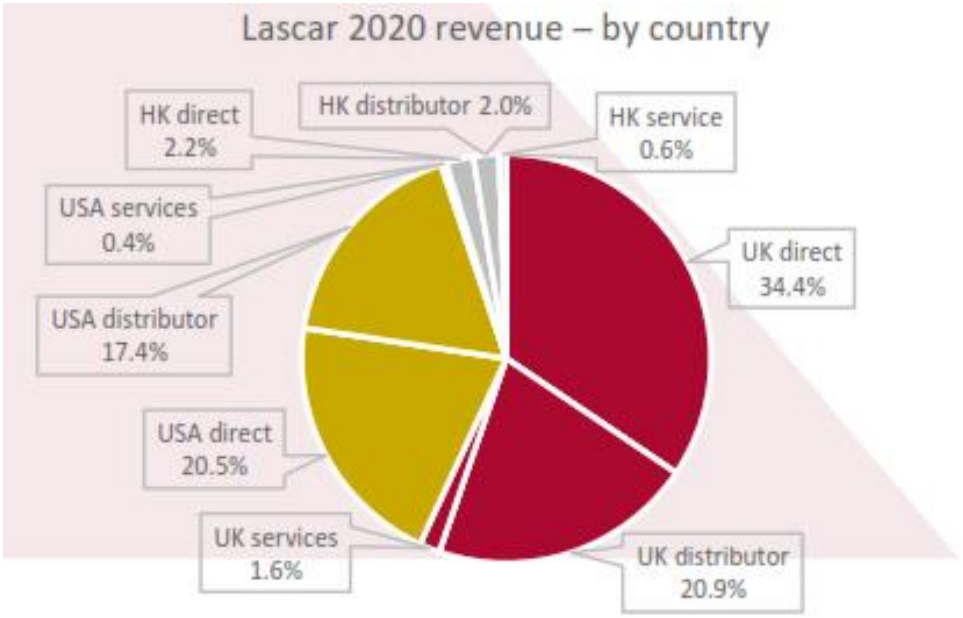

Figure 5 - exhibit RC1, page 12

23. Mr Cameron provides a break down of the sales and revenues, dated between 2019 and 2024, for five of the Proprietor's EASYLOG devices: EL-USB-1, EL-USB-2-LCD, EL-USB-3, EL-USB-4, EL-WiFi-TH. The tables detail, for each product, the company's name purchasing the device, its country code, whether the customer is retail or wholesale and the product quantity and value. Mr Cameron states that although some of the customers are not based in the UK, their numbers are nonetheless relevant because these are sales generated and made in the UK.[22] On this point, at the hearing Ms Newnes clarified that the sales concerning the non-UK customers are nonetheless territorially relevant because these were contracts for sale that were executed and made in the UK (i.e., goods purchased and paid-for in the UK even though the consumers are foreign companies).

[21] Mr Cameron's witness statement at [21].
[22] Mr Cameron's witness statement at [22].

24. For the purposes of my assessment, for each device I have summarised the evidence differentiating between the UK-based costumers and the foreign-based ones as well as indicating the total quantity and value of the products sold for each year (i.e., 2019 – 2024).

EL-USB-1 sales:

Year	Total Quantity Sold (UK-based customers)	Total Value Sold (UK-based customers)
2019	6,248	£141,673
2020	5,925	£132,318
2021	7,741	£178,068
2022	4,570	£115,297
2023	4,065	£106,892
2024	4,309	£116,709

Year	Total Quantity Sold (foreign-based customers)	Total Value Sold (foreign-based customers)
2019	4,334	£104,409
2020	4,331	£98,186
2021	4,895	£111,328
2022	3,788	£96,695
2023	2,715	£72,278
2024	3,258	£84,572

EL-USB-2-LCD sales:

Year	Total Quantity Sold (UK-based customers)	Total Value Sold (UK-based customers)
2019	3,211	£118,454

2020	3,057	£109,690
2021	2,964	£109,060
2022	1,995	£84,609
2023	2,150	£90,754
2024	2,598	£109,140

Year	Total Quantity Sold (foreign-based customers)	Total Value Sold (foreign-based customers)
2019	6,944	£253,938
2020	6,303	£222,236
2021	7,810	£262,339
2022	8,231	£319,760
2023	6,312	£254,085
2024	6,233	£235,028

EL-USB-3 sales:

Year	Total Quantity Sold (UK-based customers)	Total Value Sold (UK-based customers)
2019	624	£17,286
2020	130	£3,986
2021	114	£3,513
2022	115	£3,722
2023	208	£6,577
2024	259	£8,270

Year	Total Quantity Sold (foreign-based customers)	Total Value Sold (foreign-based customers)
2019	849	£27,506
2020	677	£18,098
2021	892	£21,892
2022	546	£15,679
2023	538	£14,388
2024	453	£14,614

EL-USB-4 sales:

Year	Total Quantity Sold (UK-based customers)	Total Value Sold (UK-based customers)
2019	2,363	£31,907
2020	2,229	£27,847
2021	2,258	£32,768
2022	1,983	£22,110
2023	1,965	£27,699
2024	1,723	£20,754

Year	Total Quantity Sold (foreign-based customers)	Total Value Sold (foreign-based customers)
2019	3,471	£47,838
2020	3,099	£43,923
2021	3,048	£49,465
2022	3,344	£36,211
2023	3,272	£41,972

2024	3,067	£25,377

EL-WIFI-TH sales:

Year	Total Quantity Sold (UK-based customers)	Total Value Sold (UK-based customers)
2019	784	£42,996
2020	458	£23,368
2021	667	£34,636
2022	537	£46,793
2023	610	£57,975
2024	1,003	£69,257

Year	Total Quantity Sold (foreign-based customers)	Total Value Sold (foreign-based customers)
2019	426	£29,944
2020	338	£23,779
2021	359	£25,331
2022	367	£28,080
2023	1,269	£78,781
2024	2,529	£151,831

25. Mr Cameron provides a list of invoices for some of the Proprietor's goods as summarised in the table below.[23]

Invoice Number	Invoice Date	Delivery Address (UK)	Total Invoice Value (GBP)	Quantity of Goods	Goods Type(s)

[23] Exhibit RC1, pages 121 - 173.

FTTA/38914	29 Oct 2019	West Yorkshire	1.80	1	Starter
SI/262551	18 Oct 2019	Leicestershire	896.61	31	EL-USB-TC; EL-USB-1; EL-USB-2-LCD; EL-USB-CASE; EL-USB-TC-LCD
SI/262617	23 Oct 2019	York	305.77	9	EL-USB-1; EL-USB-1-LCD
SI/262618	23 Oct 2019	Sheffield	1248.14	36	EL-USB-1; EL-21CFR-1-LCD
SI/263495	11 Dec 2019	Northamptonshire	917.67	25	EL-USB-2; EL-WIFI-T
SI/263936	14 Jan 2020	Warwickshire	15,339.63	330	DPM series; SGD series; EMV series; EL-USB series; EL-WIFI; S34-TP; PSU 303
SI/264175	27 Jan 2020	Newcastle upon Tyne	980.16	30	EL-USB-1
SI/264195	28 Jan 2020	Warwickshire	239.46	5	EL-WIFI-T

SI/264301	03 Feb 2020	Stoke-on-Trent (Sttafordshire)	399.30	5	EL-USB-2-LCD
SI/266852	03 Aug 2020	Rugby (Warwickshire)	489.55	4	EL-WIFI-TH
SI/267143	24 Aug 2020	Dumfries (Dumfriesshire)	311.58	7	EL-USB-1
FTTA/49553	9 September 2020	Cardiff	17.31	N/A	Professional
SI/268316	05 Nov 2020	Hull	129.58	2	EL-USB-2
SI/268500	16 Nov 2020	Maidstone (Kent)	5,745.02	96	MUL-T2 PICO+
ELC/4740	16 Nov 2021	Crawley (West Sussex)	7.19	N/A	Professional
SI/269365	08 Jan 2021	Leeds (West Yorkshire)	1,100.84	37	EL-WIFI-TH; EL-GFX-2; DPM series; SP 400
SI/269445	13 Jan 2021	Edinburgh, Midlothian	249.55	4	EL-USB-2
SI/269508	14 Jan 2021	Hinckley (Leicestershire)	189.59	1	EL-SIE-2+ CAL-T/H
SI/269978	10 Feb 2021	Canterbury (Kent)	97.72	3	EL-USB-2; EL-MOTE-P-TP
SI/270293	26 Feb 2021	North Lopham, (Norfolk)	182.16	4	EL-USB-1

SI/270508	11 Mar 2021	South Yorkshire	249.55	4	EL-USB-2
SI/270902	01 Apr 2021	Chipping Norton (Oxfordshire)	423.38	6	EL-USB-2-LCD; EL-USB-2
SI/271291	23 Apr 2021	London	165.48	2	EL-USB-2-LCD
SI/271315	26 Apr 2021	Middlewich (Cheshire)	214.40	6	EL-USB-1-LCD; EL-USB-1
ELC/8168	16 May 2022	Lancashire	10.79	N/A	Professional
SI/278209	16 Jun 2022	Canterbury (Kent)	286.76	3	EL-WIFI-TH
SI/278280	22 Jun 2022	Edinburgh, Midlothian	669.54	5	EL-WIFI-TH
SI/278458	01 Jul 2022	Halton, Leeds	2,293.24	81	EL-USB-LITE; EL-WIFI-T; EL-WIFI-TH+; DPM series
SI/279702	16 Sep 2022	Sheffield	1,569.00	50	EL-USB-1
SI/279708	20 Sep 2022	Warwickshire	6,617.39	116	DPM-340; EL-WIFI-TH; EL-USB-1-PRO; EL-USB-TC-LCD

SI/279734	21 Sep 2022	Middlewich (Cheshire)	330.40	7	EL-USB-1-LCD; EL-USB-1
SI/279738	21 Sep 2022	Colchester	2,501.27	61	EL-USB-2; EL-USB-2-LCD
SI/280152	13 Oct 2022	Broadstairs (Kent)	201.55	4	EL-USB-1
ELC/16066	20 Apr 2023	West Midlands	1.80	N/A	Starter
SI/281389	04 Jan 2023	Oxted, RH8 9DF, UK	207.56	3	EL-USB-2
SI/281477	09 Jan 2023	Dorchester (Dorset)	460.14	5	EL-USB-2-LCD
SI/282263	27 Feb 2023	Newcastle Emlyn	100.19	1	EL-USB-2-LCD
SI/282652	22 Mar 2023	West Glamorgan	142.18	2	EL-USB-2
SI/282778	29 Mar 2023	London	670.14	5	EL-WIFI-TH
SI/283673	05 Jun 2023	Colchester (Essex)	1,743.52	62	EL-USB-1; EL-USB-CASE; EL-WIFI-T
SI/283992	28 Jun 2023	Flintshire	106.18	2	EL-USB-1
SI/285181	19 Sep 2023	Corby	20,062.02	534	EL-USB-2; SGD series; DPM series; PSU 203;

					EMV series; EL-WIFI; SP series; BEZ 700-IP
ELC/24914	04 Mar 2024	Beds	7.19	1	Professional
SI/287231	22 Jan 2024	Merseyside (Lancashire)	272.71	14	EL-USB-2; BAT 3V6[24]
SI/288035	06 Mar 2024	London	670.08	10	EL-USB-2
SI/288036	06 Mar 2024	Nottingham	1,000.02	15	EL-USB-2
SI/288471	28 Mar 2024	Weymouth (Dorset)	279.23	6	EL-WIFI-T; EL-USB-LITE; EL-USB-1-LCD
SI/288793	18 Apr 2024	Sheffield	185.66	3	EL-USB-2-LCD

26. Mr Cameron provides the total advertising and marketing spend for the "EASYLOG" products and business as reproduced below:

Year	Advertising spend (£)	Marketing spend (£)
2014	Not available	5,091
2015	Not available	15,435
2016	Not available	9,349
2017	Not available	2,698
2018	4,199	10,865
2019	26,597	10,526

[24] In the invoice, the BAT 3V6 is described as the lithium battery compatible for EL-USB data loggers.

2020	36,418	3,480
2021	11,275	38,891
2022	5,495	35,528
2023	4,389	7,252

27. Mr Cameron explains that the "advertising spend" column refers to the amount spent to promote specific "EASYLOG" products (e.g., EL-WiFi-VACX advertised in pharmaceutical magazines) whereas the "marketing spend" column refers to the money spent to promote the "EASYLOG" brand more generally such as, for example, business cards, brochures, or trade shows.[25]

28. With regards to trade shows, Mr Cameron provides a list of trade shows to which the Proprietor attended between 2021 and 2024 as summarised below:

Date	**Trade shows' name**	**Location**
19/20 October 2021	Engineering Design Show	Coventry
8/10 February 2022	Southern Manufacturing Show	Farnborough
12/13 October 2022	Engineering Design Show	Coventry
7/9 February 2023	Southern Manufacturing and Electronics Show	Farnborough
11/12 October 2023	Engineering Design Show	Coventry
15/16 October 2023	The Pharmacy Show	Birmingham
17 January 2024	Instrumentation Live	Birmingham
6/8 February 2024	Southern Manufacturing and Electronics Show	Farnborough
(Not provided)	Best Practice show	(Not provided)
18/19 June 2024	Co Research Conference	Birmingham
9/10 October 2024	Engineering Design Show	Coventry

[25] Mr Cameron's witness statement at [26].

13/14 October 2024	The Pharmacy Show	Birmingham

29. The evidence clarifies that in 2019 the Proprietor adopted the company policy not to attend any trade show, and there were no shows in 2020 and only one in 2021 due to the Covid-19 pandemic.[26]

30. Along the list of trade shows, the evidence contains some images of the Proprietor attending these shows. From some of the images I can see that the Proprietor has advertised electronic devices for real-time remote monitoring, data collection and analysis, vaccine monitoring, 21CFR compliance, cold chain management, temperature monitoring, real-time alarms (see Figure 6 and Figure 7). Mr Cameron also states that all the Proprietor's products were advertised at all these events.[27] This is also clearly visible in the evidence as shown below.

Figure 6 – exhibit CR1, page 173

[26] Exhibit RC1, page 173.
[27] Mr Cameron's witness statement at [27].

Figure 7 – exhibit CR1, page 175

31. The Proprietor's participation to these trade shows has also been advertised on social media. The evidence features a series of Instagram posts advertising the Proprietor participation to:

- "Best Practice London" and "Co Research Conference" in 2024;
- "Engineering Design Show" in 2021 and 2022;
- "Instrumentation Live" in 2024;
- "Southern Manufacturing Show" in 2022, 2023 and 2024;
- "Pharmacy show" in 2023.

32. The evidence also contains three graphs from the Google Ads database showing the total cost to advertise online the keyword "Easylog" (and keywords including "easylog" such as "easylog data loggers" and "easylog lascar") in the UK between April and December 2024.[28] The evidence shows that the total costs for this

[28] Exhibit RC1, pages 187-189.

advertising campaign amounted to £38,825. In assessing this part of the evidence, I bear in mind that the last three months (October – December 2024) fall outside of the relevant periods.

33. Mr Cameron reports that "EASYLOG" products have been advertised on publications both online and in hard copies. The evidence consists of the following:

- Best Practice journal dated June 2023. The journal advertises "Easylog" indoor air quality monitors.[29]
- Electronics Today dated April and 2022. The journal advertises "Easylog" indoor air quality monitors.[30]
- Instrumentation journal dated June 2021. The evidence features an "Easylog" advertisement for the EL-SIE data loggers to measure ambient temperature, humidity and pressure.[31]
- Electronics Today dated 29 June 2021. The extract features a half-page advertisement on the Proprietor's data loggers as well as an editorial on the "Easylog" EL-USB-2-LCD.[32]
- Kaltz journal dated 20 May 2021 showing an "EasyLog" advertisement for some of the Proprietor's data loggers (temperature and humidity data logging and alerts, vaccine monitors, cold chain logistic loggers, 21CFR compliant loggers) as well as the "EasyLog" Cloud for remote monitoring.[33]
- Instrumentation Monthly dated November 2021 featuring an "Easylog" advertisement for the EL-SIE data logger.[34]
- Building and Facilities news dated 5 June 2020 featuring an advertisement for the "EasyLog" EL-SIE data logger. The article reports that the EL-SIE is a software-free data logger.[35]

[29] Exhibit RC1, page 193.
[30] Exhibit RC1, page 196 and 197.
[31] Exhibit RC1, page 198.
[32] Exhibit RC1, page 199.
[33] Exhibit RC1, page 200.
[34] Exhibit RC1, page 201.
[35] Exhibit RC1, page 202.

- Control Drives and Automation dated 28 August 2020. The evidence shows a half-page advertisement for the “EasyLog” USB monitoring devices for temperature and humidity (including remote WiFi monitoring devices) for applications in Food/Drink, Industrial and Logistics.[36]
- Cold Chain News dated November/December 2020. The extract features a full-page advertisement titled “Low-cost data loggers from EasyLog” advertising the Proprietor’s data loggers. The page also features the mark “Easylog”.[37]
- Business & Industry Today dated 6 January 2020 featuring a half-page advertisement for the “EasyLog” EL-SIE data logger.[38]
- Electronics Weekly extracts dated 2 October 2019 and 18 September 2019 featuring a half-page advertisement for an unspecified “EasyLog” data logger. The advert is meant as a teaser for a product launch.[39]
- Industrial Plant & Engineering dated 16 December 2019 featuring a half-page advertisement for the “EasyLog” EL-SIE data logger.[40]
- The Engineering journal dated 14 November 2019 featuring a half-page advertisement for the “EasyLog” USB monitoring devices for temperature and humidity (including remote WiFi monitoring devices) for applications in the fields of Food/Drink, Industrial and Logistics.[41]

34. Mr Cameron also states that “EASYLOG” products have been regularly advertised via email and hard copy email campaigns. Mr Cameron reports that the evidence features extracts of these campaigns (mailshot/leaflet) in the UK between 2019-2024.[42] Some of the extracts are also paired with their respective invoice where available. Accordingly, the evidence features:

[36] Exhibit RC1, page 203.
[37] Exhibit RC1, page 204.
[38] Exhibit RC1, page 205.
[39] Exhibit RC1, pages 206 and 207.
[40] Exhibit RC1, page 208.
[41] Exhibit RC1, page 209.
[42] Exhibit RC1, pages 210-245.

- One advertisement for the “Fruit Attraction Exhibition” (9 October 2019). The advertisement is for the “EasyLog” vegetable monitoring devices (i.e., EL-USB-2, EL-USB-TP-LCD and EL-USB-TC-LCD).
- Two extracts relating to advertisements for the launch of the “EasyLog” EL-SIE range (i.e., EL-SIE 6+) data logger (compatible with the EasyLog Cloud) directly to consumers (dated 20 November 2019) and distributors (dated 21 November 2019) in the UK.
- One advertisement (dated 4 December 2019) sent to the EL Cloud account holders for the launch of the EL-SIE data logger.
- One advertisement titled “Christmas Deal UK” (dated 16 December 2019) sent to the UK data logger end users advertising the “EasyLog” EL-BT-2 data logger. The evidence also contains a “reminder” email sent to the users on 20 December 2019 advertising the “EasyLog” EL-BT-2 data logger.
- Three sets of vaccine flyers, dated November 2020/January 2021, sent to NHS contacts advertising “EasyLog” vaccine monitors (i.e., EL-WiFi-VACX, EL-USB-TC, EL-WiFi-TC and EL-WiFi-DTC). For the vaccine campaign in November (first two sets of flyers) the evidence features an invoice, dated 10 December 2020, showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £1,583.60.
- Leaflets sent to holiday home managers (dated February 2021) advertising “EasyLog” data loggers to monitor indoor mould conditions.
- Bakery food safety flyers (dated March 2021) sent to bakery owners advertising “EasyLog” data loggers for temperature monitoring.
- Butchers food safety flyers (dated March 2021) sent to the owners of butcher shops advertising “EasyLog” data loggers for temperature measurement and monitoring. The evidence also contains an invoice dated 27 March 2021 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £1,185.89.
- Fish and chips food safety flyers (dated March 2021) sent to owners of fish and chips shops advertising “EasyLog” data loggers for temperature measurement and monitoring. The evidence also contains an invoice dated 27 March 2021

showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £1,185.12.

- Takeaway food safety flyers (dated April 2021) sent to owners of takeaway shops advertising “EasyLog” data loggers for temperature measurement and monitoring. The evidence also contains an invoice dated 12 April 2021 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £1,749.70.
- Leaflets relating to NHS pharma and blood storage (dated April 2021) sent to NHS contacts advertising “EasyLog” wireless data loggers for medical condition monitoring. The evidence also contains an invoice dated 30 June 2021 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £629.42.
- Leaflets (dated May 2021) sent to fishmongers relating to the condition monitoring of fresh seafood. The leaflets advertise the “EasyLog” data loggers to measure temperatures. The evidence also contains an invoice dated 7 July 2021 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £972.15.
- Leaflets (dated May 2021) sent to vets relating to the condition monitoring around animals and their enclosures and advertising the “EasyLog” data loggers to measure temperatures. The evidence also contains an invoice dated 7 July 2021 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £972.15.
- Leaflets concerning the UK vaccines (dated August 2021) sent to NHS contacts advertising “EasyLog” data loggers for vaccine monitoring (i.e., EL-USB-VAC, EL-WiFi-VACX, EL-USB-ULT-LCD, EL-WiFi-ULT). The evidence also contains an invoice dated 26 August 2021 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £2,830.62.
- Leaflets sent to pub and hotel managers relating to store food hygiene in pubs, bars and restaurants and advertising the “EasyLog” data loggers to monitor and manage the temperature of stocks (e.g., EL-USB-2-LCD). The evidence also contains an invoice dated 21 September 2021 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £742.97.

- Leaflets sent to senior leadership in museums (dated October 2021) advertising the “EasyLog” Cloud-connected and WiFi-enabled data loggers to detect and monitor indoor temperature and humidity levels to protect artefacts in museums. The evidence also contains an invoice dated 4 November 2021 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £721.82.
- Leaflets sent to leisure centres (dated December 2021) advertising the “EasyLog” data loggers for temperature monitoring in these facilities. The evidence also contains an invoice dated 8 December 2021 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £1,187.55.
- Leaflets sent to care homes (dated January 2021 and February 2022) advertising the “EasyLog” air quality monitors for care homes. The evidence also contains an invoice dated 17 February 2022 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £2,243.73.
- Leaflets sent to headteachers and principals (dated January 2022 and February 2022) advertising the “EasyLog” air quality monitors for schools, colleges and universities. The evidence also contains an invoice dated 17 February 2022 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £2,528.85.
- Leaflets (dated May 2022) sent to managers of leisure centres advertising the “EasyLog” air quality monitors for leisure facilities. The evidence also contains an invoice dated 14 June 2022 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £1,363.54.
- Leaflets (dated November 2022) advertising the “EasyLog” Cloud-connected indoor air quality monitors (EL-WEM+) for health and safety purposes. The evidence also contains an invoice dated 30 November 2022 showing that the Proprietor printed and distributed 1,000 leaflets spending a total of £1,297.96.
- Leaflets (dated July 2023) advertising the “EasyLog” loggers for temperature and humidity monitoring (e.g., EL-WiFi-TH, El-IOT-CO2 and Wireless Alert TH).

- Leaflets (dated February 2024) advertising the "EasyLog" loggers for temperature, humidity and air quality monitoring in the field of food and drink manufacturing and processing.

35. Regarding the reach of the above advertising, the invoices show that the materials were sent to thousands of contacts. However, Mr Cameron states that some of the larger advertising campaigns reached nearly 7,000 contacts.[43]

36. Mr Cameron reports that the Proprietor has advertised the "EASYLOG" products on its Facebook profile since 2012. Accordingly, the evidence features numerous Facebook posts dated between April 2012 and September 2023. The posts feature the mark "EasyLog" used in all the posts to advertise a series of products. I note that the Facebook post dated 2015 features prices in USA dollars.[44] I also note that most of the evidence does not clearly indicate whether it targets the UK market. However, Mr Cameron states that the Facebook posts provided derive from the UK Facebook account operated by the Proprietor.[45] To this regard a screenshot of the Facebook account is provided showing the Proprietor's UK contacts (address, phone number and email).[46] Furthermore, some posts clearly target the UK market: one post talks about the use of "EasyLog" temperature data loggers to monitor vaccine storage conditions for the Oxford University coronavirus vaccine being rolled out to UK volunteers for testing.[47] Another post advertises the Proprietor's air quality monitors referring to data from the Public Health England and air quality in the UK.[48] Therefore, I agree with the Proprietor that at least some of the evidence targets the UK public.

37. The vast majority of the Facebook posts feature the "EasyLog" mark and advertise a series of the Proprietor's products (e.g., the ATP series and the EL-IOT-CO2) for a series of market application such as blood and blood products monitoring, temperature data loggers for vaccine storage conditions monitoring, temperature loggers for monitoring stored food in supermarkets, humidity data loggers for

[43] Mr Cameron's witness statement at [30].
[44] Exhibit RC1, page 246.
[45] Mr Cameron's witness statement at [31].
[46] Exhibit RC1, page 265.
[47] Exhibit RC1, page 254.
[48] Exhibit RC1, page 262.

monitoring food in pubs/restaurant's kitchens, CO2 monitoring for indoor/outdoor air quality and temperature data loggers for leisure centres.

38. Mr Cameron states that the Proprietor has advertised "EASYLOG" products on the X (formerly Twitter) social media platform. To this regard, the evidence features sample extracts of X posts dated between May 2021 and September 2024 featuring the "EasyLog" mark used to advertise a series of the Proprietor's data loggers and monitoring devices (e.g., EL-WEM/EL-WEM+, EL-IOT-CO2, IOT-CO2, EL-IOT wireless) for a series of market applications: temperature loggers for stored produce, storage condition monitors for blood and blood products, temperature and data loggers for stored food, cloud-connected data loggers to monitor temperature in museums and galleries, ultra-low temperature data loggers for monitoring vaccines, indoor air quality monitors and data loggers, CO2 monitoring devices in hospitals, outdoor air pollution monitors, vaccine monitoring devices for animal welfare, temperature monitors for food in transport.

39. One post also advertises the Proprietor's participation to the Best Practice tradeshow in London on 28/29 February 2024 and advertising some "EasyLog" devices for healthcare solutions.

40. The evidence also features extracts from a few printed brochures and product catalogues respectively date 1994, 1999, and 2000/2001 showing use of the mark "EasyLog" in relation to some of the Proprietor's data loggers (e.g., EL-1, EL-2, EL-LITE, EL-LINK, EL-HL, EL-WIN) being advertised and available for purchase in the UK. The evidence shows prices in both pound sterling and USA dollars. The evidence also reproduces the "EasyLog" EL-WIN software manual for Windows-compatible data loggers.

41. The evidence contains a series of emails from UK customers dated December 2003, July 2005, July 2020, March/April 2022, November/December 2023 and September 2024. The correspondence consists of enquires from customers relating, for example, the products' data memory storage capacity, price quotes, ordered unit numbers, regarding the "EasyLog" products (i.e., EL-2 series, EL-3, EL-WIFI-TH).

42. That completes my summary of the Proprietor's evidence.

Decision

Statutory provisions

43. 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;
>
> (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."

44. 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

45. 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.

46. 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]."

47. The General Court of the European Union has repeatedly held that genuine use of a trade mark cannot be proved by means of probabilities or suppositions, but must be demonstrated by solid and objective evidence of effective and sufficient use of the trade mark on the market concerned: see e.g. Case T-78/19 *Lidl Stiftung & Co KG v European Union Intellectual Property Office* [EU:C:2020:166] at [25].

48. What I take from the relevant case law is also 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 mark.[49]

Form of the mark

49. In the evidence the word-only registered mark "EASYLOG" is mostly used with the irregular capitalisation "EasyLog". As the Contested Mark is registered as a word mark, it may be used in any form irrespective of the mark's capitalisation.[50] Thus, the use of "EasyLog" is clearly acceptable use of the mark.

50. Additionally, I note that, in many instances "EasyLog" is represented with a greyscale 3D cube device placed either above the words "EasyLog" (Figure 8). The words "EasyLog" are also presented with the cube placed on the left hand-side either in grayscale with "EasyLog" in black (Figure 9) or with both the cube and words in white on a dark background (Figure 10).

[49] *Awareness Limited v Plymouth City Council,* Case BL O/236/13; *Dosenbach-Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd,* Case BL 0/404/13.
[50] *LA Superquimica v EUIPO*, Case T-24/17, [39].

Figure 8

Figure 9

Figure 10

51. At the hearing Ms Newnes submitted that the addition of the cube does not alter the distinctive character of the mark and these uses are of acceptable variant forms of the Contested Mark. Ms Newnes referred me to the relevant case law such as *Collosseum*[51] and *Lactalis*[52] as well as *Bothy*[53] where it was found that the addition of numerous figurative elements still did not alter the mark's distinctive character. I agree with Ms Newnes' submissions and I find the variant forms in Figure 8, 9 and 10 are acceptable variants as further explained below.

52. With regard to these uses of the mark in Figure 8, given that consumers tend to be drawn to elements of marks that can be read,[54] although the device is clearly visible

[51] *Colloseum Holdings AG v Levi Strauss & Co* (Case C12/12) at [32].
[52] *Lactalis McLelland Limited v Arla Foods AMBA* (Case BL O/265/22), at [14].
[53] *ACEO Limited v Bothy Trading Limited* (Case BL O/0251/26), at [27].
[54] *Migros-Genossenschafts-Bund v EUIPO*, T-189/16, [52].

in the mark, I find that "EasyLog" is the main distinctive element in the mark and the use of "EasyLog" along with the device does not prevent the verbal element from being viewed independently to indicate the origin of the goods. With regard to the uses of the marks in Figure 9 and Figure 10, whilst I appreciate that consumers read from left to right and that, generally, beginnings of marks tend to have more visual impact than the ends,[55] the principle laid down in *El Corté Ingles* is not a hard and fast rule of law. Therefore, I find that also the uses of "EasyLog" with the device as represented in Figure 9 and Figure 10 are acceptable uses of the Contested Mark.

53. I note that the evidence, in a few instances, features the words "EasyLog" with "Easy" in blue and "Log" in red along with a three-coloured cube (red, green and blue) featuring the white letters "E" and "L" placed on two faces of the cube (Figure 11).

Figure 11

54. As stated above, as the Contested Mark is registered as a word mark, it may be used in any form, in any colour or font type (irrespective of its capitalisation).[56] Therefore, also the bi-colour representation of "EasyLog" is an acceptable use of the mark. Turning to the colourful cube device, as indicated above, elements that can be read tend to be more distinctive than figurative elements. Therefore, as found above, "EasyLog" is the most distinctive element in the mark. Although I appreciate that the figurative device is placed at the beginning of the mark, to which consumers would pay more attention, it is colourful and features the letters "E" and "L", I am of the view that, when seen in combination with "EasyLog", the latter will be viewed independently to indicate the origin of the goods. Consequently, also

[55] *El Corte Inglés, SA v OHIM*, Cases T-183/02 and T-184/02.
[56] Case T-24/17, *La Superquimica v EUIPO* [39].

this variant form of the Contested Mark is fair and notional use of the registered mark and/or use upon which the Opponent can rely.

55. Finally, I note that there are instances in the evidence where only the black and white 3D cube device with the letters “E” and “L” is used by itself (see Figure 12).

Figure 12

56. Although I appreciate that the mark features the letters “E” and “L” that may be perceived as indicating the initials of “Easy” and “Log”, I do not find that the mark would be capable of clearly identifying the “EasyLog” mark without the additional verbal element indicating “EasyLog”. Thus, I do not find this to be an acceptable variant use of the mark.

Assessment of the sufficiency of use

57. Whether the use shown is sufficient to constitute genuine use will depend on whether there has been real commercial exploitation of the mark, in the course of trade, sufficient to create or maintain a market for the goods and services at issue in the UK (or the EU for the Contested Mark (ii)) during the relevant periods. In making my assessment, I must consider all relevant factors, including:

- the scale and frequency of the use shown;
- the nature of the use shown;
- the goods/services for which use has been shown;

- the nature of those goods/services and the market(s) for them; and
- the geographical extent of the use shown.

58. As submitted by Ms Newnes in her skeleton arguments and at the hearing, given the proviso at section 46(3) of the Act, if the Proprietor can establish genuine use in the most recent period (i.e., 20 September 2019 - 19 September 2024), the registration will not be revoked for the earlier relevant periods. Therefore, I will begin my assessment of the evidence in relation to the fourth relevant period. Only if no genuine use will be found for this period, I will then consider the evidence for the previous relevant periods.

59. The evidence shows the mark applied to the packaging of the Proprietor's data loggers as marketed, and that they have been offered for sale via the Proprietor's website, marketed directly to UK consumers, and distributed in the UK through a range of different distributors. The sales figures indicate that, between 2019 and 2024, revenues attributable to the "EASYLOG" data loggers have averaged around £1.5 million per year (amounting to almost £9 million over the five-year period). I find these revenues to be substantial. The invoices further show that the Proprietor's data loggers have been supplied to customers in various parts of the UK. In addition, the evidence shows sustained promotional activity: total marketing spend for "EASYLOG" products is almost £180,000, including approximately £30,000 spent on Google Ads between April and September 2024; the mark has been promoted between 2021 and 2024 through participation at trade shows in different UK cities where it was clearly displayed on banners and other promotional materials; it has also been advertised via social media platforms (Facebook and X), and through journals and printed leaflets distributed to numerous consumers across different industry sectors (including, for example, vets, fishmongers, NHS contacts, and managers of pubs/hotels/museums/leisure centres) in the UK. Taken together, this evidence shows real commercial exploitation of the mark on the market, consistent with maintaining and/or creating an outlet for the goods, and goes well beyond token use. Accordingly, I find that it is sufficient to establish genuine use of the mark "EASYLOG".

Fair specification

60. Having found use of the Contested Mark, I must determine a fair specification upon which the Proprietor is entitled to rely, bearing in mind the use that has been demonstrated.

61. In *Merck KGaA v Merck Sharp & Dohme Corp & Ors*, [2017] EWCA Civ 1834, Kitchin LJ (as he then was) set out the approach to be followed when considering partial revocation of a trade mark. The same approach is relevant when framing a fair specification. He said:

> "244. As I described in *Maier v Asos*, the approach to be adopted is relatively straightforward (although I readily acknowledge that it may on occasion be difficult to apply) and it is in my view consistent with the earlier decisions of the Court of Appeal to which I referred at paragraph [63]. On reflection, I think it can be expressed more clearly 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 categories.
>
> 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 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."

62. This approach was endorsed by the Supreme Court in *SkyKick UK Ltd & Anor v Sky Ltd & Ors (Rev1)* [2024] UKSC 36:

"261. […] First, there can be no doubt that an application to register a mark in respect of a broad category of goods or services may be made partly in bad faith in so far as the broad description includes distinct sub-categories of goods or services in relation to which the applicant never had any intention to use the mark, whether conditionally or otherwise. In my view, that emerges clearly from the decision of the CJEU in this case. The approach to be adopted in such a case was explored and explained by the Court of Appeal in *Merck KGaA v Merck Sharp & Dohme Corp* [2017] EWCA Civ 1834; [2018] ETMR 10, at paras 241-2491 and, so far as I am aware, that approach has proved workable and appropriate and has stood the test of time, save that it must now be seen in light of the more recent guidance given by the CJEU in, for example: *Ferrari SpA v DU* (Joined Cases C-720/18 and C-721/18) EU:C:2020:854; [2021] Bus LR 106, at paras 3653. There the CJEU explained, at para 40, that the essential criterion to apply for the purposes of identifying a coherent subcategory of goods or services capable of being viewed independently is their purpose and intended use."

63. In *Euro Gida Sanayi Ve Ticaret Limited v Gima (UK) Limited*, BL O/345/10, 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."

64. From my account of the evidence above, this shows use of the Contested Mark for data loggers with different functionalities and industry applications.

65. The evidence shows use of USB data loggers to measure temperature (EL-USB-1) and that can have different voltage ranging from 0-30V DC (EL-USB-3) to 4-20mA Current Loop (EL-USB-3) as well as other characteristics such as the Probe USB with LCD display (EL-USB-TP-LCD) or the K, J, and T-type thermocouple USB data logger with LCD display (EL-USB-TC-LCD). Other USB data loggers can measure temperature and humidity (EL-USB-2) and have an LCD display (EL-USB-2-LCD). The goods also encompass USB data loggers that function without the need for a software and that measure temperature (EL-SIE), temperature and humidity (EL-SIE-2) or temperature, humidity and pressure (EL-SIE-6+).

66. The Proprietor's goods also consist of data loggers that operate via WIFI and measure temperature (EL-WIFI-T), temperature and relative humidity (EL-WiFi-TC) also having other characteristics such as a dual thermocouple input (EL-WiFi-DTC) or smart probe, alarm warning light and sounder for vaccine data logging (EL-WiFi-VACX: WiFi). The Proprietor's goods also encompass wireless data loggers with alarms to measure indoor air quality (EL-WEM) or indoor air quality and CO2 levels (EL-WEM+). Other wireless data loggers also have other characteristics such as being IoT and measure ambient temperature (EL-IOT) as well as being IoT and have an LCD display and measure temperature, humidity and CO2 levels (EL-IOT-CO2).

67. At the hearing, Ms Newnes directed me to the definition of "data logger" where it is stated that:

"*A data logger is an electronic device that monitors the conditions of an environment or an event. Used to record and store data over periods of time, data loggers let you analyse the readings they have collected either via software used on PC or Mac or by sending results straight to a Cloud-based storage account so you can access your data anytime, anywhere.*"[57]

68. From this definition I can see that the Proprietor's data loggers are defined as "electronic devices". I agree with this definition. From my understanding of the difference between electronic and electric devices, the former typically converts electrical energy into another form of energy such as heat, light, or motion whereas the latter uses the flow of electrical signals to perform specific tasks, often involving information processing. It follows that a USB or Wi-Fi temperature/humidity/pressure data logger is best characterised as an electronic device because its essential function is to sense environmental conditions and then process, store, and often transmit those readings as data, rather than converting electrical energy into heat, light, or motion (as an electrical device typically would). Therefore, "*Electrical […] apparatus and instruments"* will not form part of the Proprietor's fair specification.

69. Turning to "*electronic testing […] apparatus and instruments*", my understanding of testing devices is that they are used to measure and analyse electrical signals in electronic circuits to verify their correct operation. Ms Newnes clarified that the Proprietor's data loggers also have a testing function because in order to carry out monitoring functions, the devices must measure electrical state changes and test the electric environment as well as test electric current.

70. The invoices show instances where the Proprietor has marketed various voltmeters in 2020 (DPM series and SP 8-100), 2021 (DPM series and SP 400), 2022 (DPM 400) and in 2023 (DPM series, EMV 1200, SP series and EM32-1B-LED).[58] Voltmeters measure electrical changes in terms of voltage. Hence, I find that the evidence sufficiently shows use of the Contested Mark also for electronic testing apparatus and instruments.

[57] Exhibit RC1, page 199.
[58] Exhibit RC1, pages 127, 128, 137, 150 and 165.

71. Turning to "*thermostatic control apparatus*", they detect the temperature of a space (or physical system) and automatically control its heating and/or cooling so that the temperature is maintained near a chosen set point, without continuous human intervention. The Proprietor's goods are electronic data loggers that measure, store and communicate data relating to temperature, humidity, pressure and air quality (indoor or outdoor). Although I appreciate that the Proprietor's data loggers measure temperature and can have alarms or lights to warn that a set temperature has been surpassed (i.e., too hot or too cold), however, these devices cannot automatically control the temperature. Therefore, I do not find that the evidence shows use for "*thermostatic control apparatus*".

72. With regards to "*computer hardware"*, at the hearing Ms Newnes submitted that the data loggers have screens, LED displays, USB ports and control panels and that this is essential hardware for the goods to carry out their functions. I agree with Ms Newnes that the data loggers are pieces of hardware insofar as they are physical devices that process information. However, I find that "*computer hardware*" is a wide term that can encompass every physical, tangible component of a computer system and, hence, it is excessively wide to fairly identify the Proprietor's data loggers and it should be limited accordingly.

73. Ms Newnes, in her skeleton argument and at the hearing, provided an alternative limited specification:

> "*computer hardware for use in relation to temperature, humidity, electrical parameters, pressure, gas levels, water flow, water pressure, water leaks, water treatment, water contaminant levels, logistics and environmental monitoring; computer hardware for use in relation to event or state detection.*"

74. I note that the evidence does not show any use of the data loggers in relation to water including water flow, water pressure, water leaks, water treatment and water contaminant levels. I also find that "*gas levels […] and environmental monitoring*" is not sufficiently precise to indicate the goods' functionality. Following from my account of the evidence above, I find that reference to "air quality" would be a fairer representation of the goods' function. Furthermore, I find that "*computer hardware for use in relation to event or state detection*" is not clear and precise enough to

adequately limit the original specification. Accordingly, a fair specification should feature:

> "*computer hardware for use in relation to temperature, humidity, electrical parameters, pressure, logistics and air quality monitoring.*"

75. Turning, to "*computer software"*, Mr Cameron states that the Proprietor's goods cannot function without a software and, thus, the evidence relating to the distribution of the Proprietor's goods also concerns the distribution of the "EASYLOG" software. Although I appreciate that some of the Proprietor's goods are "software free" (i.e., EL-SIE series),[59] the evidence clearly shows that software is an integral feature for most of the Proprietor's goods. For example, looking at the goods' datasheets, I see that the EL-USB-2 feature the "EasyLog software available as a free download"[60] and the same is for the EL-USB-1-LCD[61] as well as the EL-WIFI-TH+.[62] Furthermore, the data loggers can store their data in an online internet database (i.e., EasyLog Cloud). Therefore, it is reasonable to believe that the data loggers must have a software to do so. However, also for "*computer software*" I find that this term is excessively wide and must be limited.

76. Ms Newnes, in her skeleton argument and at the hearing, provided an alternative limited specification:

> "*computer software for use in relation to temperature, humidity, electrical parameters, pressure, gas levels, water flow, water pressure, water leaks, water treatment, water contaminant levels, logistics and environmental monitoring; computer software for use in relation to event or state detection*".

77. The same reasoning outlined above at paragraph [74] applies here. Therefore, I find that a fair specification should include:

> "*computer software for use in relation to temperature, humidity, electrical parameters, pressure, logistics and air quality monitoring.*"

[59] See, for example, exhibit RC1, page 202.
[60] Exhibit RC1, page 31.
[61] Exhibit RC1, page 40.
[62] Exhibit RC1, page 42.

78. Finally, regarding *"parts and fittings for all the aforesaid goods"*, at the hearing Ms Newnes referred me to the price list in the evidence where Mr Cameron lists the products being sold under the "EASYLOG" mark for at least the fourth relevant period. Ms Newnes pointed out that the list contains different parts and fittings for the data loggers (i.e., waterproof bags, magnetic wall brackets and wall mounts, development boards, probe extension cables, temperature probes, and protective metal cases). Ms Newnes also pointed out that the invoices show that the Proprietor has marketed some of these goods (i.e., protective metal cases and development kits).[63] Notably, the evidence shows that 9 protective metal cases were retailed in 2019, 5 were sold in 2023 and 2 development kits were sold in 2023. I note that the invoices also show that 10 batteries for EL-USB were sold in 2024. No further evidence has been provided for this type of goods. Accordingly, I find this evidence is insufficient to warrant a finding of genuine use of the mark for parts and fittings of the Proprietor's goods.

79. From the above considerations I believe that a fair specification for the Contested Mark would be:

Class 9 "*Electronic testing, measuring and monitoring apparatus and instruments; electronic monitoring apparatus; temperature monitoring apparatus; computer hardware and computer software for use in relation to temperature, humidity, electrical parameters, pressure, logistics and air quality monitoring; all included in Class 9."*

Outcome

80. The application for revocation on the grounds of non-use under section 46(1)(a) and section 46(1)(b) has mostly failed although it partly succeeded insofar as the contested application has been limited.

81. As a result, the Contested Mark, subject to any successful appeal, may remain registered for all of the following goods, being those for which I have found there to be genuine use:

[63] Exhibit RC1, pages 121, 163 and 165.

Class 9 “Electronic testing, measuring and monitoring apparatus and instruments; electronic monitoring apparatus; temperature monitoring apparatus; computer hardware and computer software for use in relation to temperature, humidity, electrical parameters, pressure, logistics and air quality monitoring; all included in Class 9.”

82. The Contested Mark is hereby revoked in part for the following goods:

Class 9 “Electrical testing, measuring and monitoring apparatus and instruments; thermostatic control apparatus; parts and fittings for all the aforesaid goods”

83. The effective date of revocation for the Contested Mark is 23 September 2000.

Costs

84. The Proprietor has had a higher degree of success and is, therefore, entitled to a contribution towards its costs.

85. Ms Newnes, in her skeleton arguments and at the hearing, submitted that the higher end of the costs should be awarded. This because the Applicant lodged the action at hand without previous notice to the Proprietor and without attempting to reach an amicable solution or, at least, limit the instant application. Furthermore, it is argued that the Applicant did not engage in the proceedings and it did not withdraw the action once it became clear from the evidence that the evidence showed use of the mark. Ms Newnes contends that the Applicant’s behaviour forced the Proprietor to expend considerable time and costs to defend its position.

86. Although I appreciate Ms Newnes’ arguments, the Applicant acted within its right in filing a cancellation action against the Contested Mark and it remained opened to the Applicant the possibility not to engage in the proceedings. Therefore, I do not find that the Applicant’s behaviour should warrant for any award of higher in-scale costs. Nonetheless, I appreciate that the Proprietor’s evidence was extensive, comprehensive and detailed. Therefore, I find that the Proprietor is entitled to an award of costs in part higher than the lowest threshold.

87. Based upon the scale published in Tribunal Practice Notice 1/2023, I award the following as a contribution towards the Proprietor's costs:

Filing the defence and counterstatement	£250
Preparing evidence	£1,000
Preparing for, and attending the hearing	£700
Total	£1,950

88. I therefore order Kilburn & Strode LLP to pay Lascar Electronics Limited the sum of **£1,950**. 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 22nd day of May 2026

For the Registrar

Andrea Rossi