BL O/1191/25

TRADE MARKS ACT 1994
IN THE MATTER OF APPLICATION NO. UK 3792336
BY CASHFLOW CORPORATION LTD
TO REGISTER ENERJO
IN CLASSES 1, 4, 7, 8, 9, 11, 12, 35, 36, 37, 39, 40 & 42
AND OPPOSITION NO. 436854
IN THE NAME OF SE BICYCLES COMPANY LIMITED

DECISION

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1. This is an appeal against the decision of Hearing Officer Mr Arran Cooper dated 9 May 2025 in which he allowed an opposition on the grounds of bad faith under s.3(6) Trade Marks Act 1994 to registration of the mark ENERJO in Classes 1, 4, 7, 8, 9, 11, 12, 35, 36, 37, 39, 40 & 42.

2. The specification sought runs for 120 pages and spans a wide range of goods and services. The Hearing Officer rejected it under *Skykick*[1] principles. The Applicant/Appellant had not adduced any evidence in support of its application.

3. The opposition was also brought under s.5(2)(b) but was dismissed by the Hearing Officer. It is not the subject of any appeal.

4. Neither side requested a hearing before the Hearing Officer.

5. Before me at a hearing which took place on 17 December 2025 the Applicant/Appellant was represented by Shakeel Aslam, a director of Cashflow Corporation Limited. The Opponent/Respondent was represented by Mitchell Wilmott of National Register Group Limited. I am grateful to both of them for their written and oral submissions.

STANDARD OF APPEAL

6. The principles are set out in the well-known cases of *Axogen v Aviv Scientific* [2022] EWHC 95 (Ch), *Lifestyle Equities v Amazon* [2024] UKSC 8 and *Iconix v Dream*

[1] *SkyKick UK Ltd & Anor v Sky Ltd & Ors* [2024] UKSC 36

Pairs [2025] UKSC 25. I summarised the approach in SOCIAL WORK NEWS (O/0050/24) at [13]:

> To paraphrase, an appeal should only be allowed where the decision of the lower court was "wrong". Absent an error of law, the appellate court would be justified in concluding that the decision of the lower court was wrong if the judge's conclusion was "outside the bounds within which reasonable disagreement is possible". In the case of a multifactorial assessment and in the absence of a distinct error of principle, the appeal court should show a real reluctance, but not the very highest degree of reluctance, to interfere.

7. I have sought to apply those principles. It is not enough that a different tribunal might have reached a different conclusion; I must be satisfied that the Hearing Officer was wrong in the conclusion he reached.

PRELIMINARY POINT - THE STATUS OF THE APPLICANT

8. The original Applicant/Appellant was Cashflow Corporation Limited. On 9 December 2025, just 8 days before this hearing was due to take place, the Opponent/Respondent wrote to the IPO to point out that on 9 September 2025 the Applicant had been struck off the Register of Companies at Companies House and was formally dissolved on 16 September 2025. Mr Wilmott, the Opponent's representative, submitted that the proceedings should be terminated because the Applicant no longer existed as a legal entity and the trade mark in issue was now *bona vacantia*.

9. By response of the same day, the Applicant's representative, Shakeel Aslam, filed a TM21A "Update to the current applicant or owner's details (name, address or email only" stating that the new name of the owner was Cashflow LLC, a company incorporated in the state of Wyoming, USA.

10. In an accompanying witness statement, Mr Aslam stated:

> 2. Kindly correct the Owner name to read as "CASHFLOW LLC" and the Country of Incorporation as United States. Exhibit-1 attached contains Certificate of Good Standing proving existence of this legal entity.
> 3. The true legal beneficial owner of all our Intellectual Property portfolio has always been CASHFLOW LLC and not CASHFLOW CORPORATION LTD (dissolved).

11. At the hearing before me Mr Aslam explained that the UK company had been notified as applicant to the Registry in error and that all intellectual property was intended to be held by Cashflow LLC. He also stated that he would be applying to restore the

UK Company to the register. He gave the address of Cashflow LLC, which had previously not been provided, as 30 North Gould Suite R, Sheridan, WY 82801.

12. It is very difficult for me to deal with this issue conclusively on the material before me as the point has been raised so late and the evidence is incredibly thin. It might be said that it is very convenient for the Applicant to be able to say that the Applicant is really Cashflow LLC in circumstances where Cashflow Corporation Limited has been dissolved. On the other hand, it is possible that even if Cashflow Corporation Limited is and always has been the Applicant, it will be restored to the register. So I prefer not to determine this appeal on the basis of the true identity of the Applicant. However, the fact that it is now said that the trade mark application is owned by a foreign corporation when there has been no evidence adduced of any licences of intellectual property to any UK company is a point against the Applicant as far as good faith is concerned. I return to this below.

THE HEARING OFFICER'S DECISION ON BAD FAITH

13. Section 3(6) of the Act states:

> "(6) A trade mark shall not be registered if or to the extent that the application is made in bad faith"

14. The law on bad faith has recently been comprehensively reviewed by the Supreme Court in *Skykick.* Like many other oppositions, this one was stayed pending the outcome of *Skykick* so that any relevant learning could be applied.

15. The Hearing Officer began his analysis in his §63 by quoting extracts from Lord Kitchin's summary of the law in *SkyKick* at [240]. He correctly summarised the Opponent's case as being that the Applicant did not have a bona fide intention to use its mark for all of the goods and services covered by the 120 pages of specification.

16. The Hearing Officer then went on to review the evidence. In §67 he gave examples of the width of the specification, which included the following:

- "Aluminium acetate", "chemical coating for ophthalmic lenses", "fish meal fertilizers" and "flashlight preparations" in Class 1;
- "Truncheons / bludgeons / police batons", "punch rings [knuckle dusters] / knuckle dusters", "sand trap rakes" and "vegetable choppers" in Class 8;
- "Ski goggles", "x-ray films", "photography darkroom lamps" "decompression chambers" "screen saver software", "body armor" and "mobile phone cases featuring rechargeable batteries" in Class 9;

- “Aeroplanes”, “anti-glare devices for vehicles”, “delivery drones” and “trams” in Class 12;
- “Fur care, cleaning and repair”, “furnace installation and repair” and “mining extraction” and “snow removal” in Class 37;
- “Distribution energy”, “pleasure boat transport” and “rental of horses for transport purposes” in Class 39;
- “Distillation services”, “tanning” and “taxidermy” in Class 40; and
- “Golf course design”, “research in the field of artificial intelligence technology”, “oil-field surveys” and “weather forecasting” in Class 42.

17. He also pointed out that the goods and services included ‘fuels for nuclear reactors’, ‘krypton’, ‘space vehicles’ and ‘fracking services’.

18. He explained in §69:

> It is difficult to imagine that one business would use its trade mark to indicate to customers that it is responsible for providing goods and services as varied as those in the specification at issue. The sheer breadth of the specification is sufficient to call into question whether the applicant had an intention to use the trade mark in accordance with its essential function in relation to all of the goods and services in the application.

19. I agree with this observation.

20. The Hearing Officer continued in §70:

> In response to the claim against it, I note that the applicant initially responded by contending that the filing of its mark was “genuine and bonafide” and made in order to “establish, operate commercial and industrial enterprises, create jobs and positively contribute towards the economic development of United Kingdom.” While clearly a denial of the claim against it, this point of defence is actually somewhat vague and in no way does it indicate an actual and reasonable business intention. In addition, I note that the applicant did not elect to file any evidence as to its actual commercial activities.

21. He then referred to the Applicant’s submissions, repeated before me:

> “**ENERJO** is a coined fancy term invented by the applicant with the genuine **INTENTION** to produce and sell commercial products and services worldwide and the trademark application filing in UK is to seek clearance from the UK IPO prior to entering into and starting commercial operations in UK market.

22. The Hearing Officer continued in §72:

> While the above submissions are noted, I am of the view that they are very vague and imprecise. They do nothing to assist the applicant in proving that it has a genuine intention to use its mark for the disparate range of goods and services it applies for. Instead, it appears to me as though they indicate that the applicant's intentions are to sell 'commercial products and services worldwide'. Such commercial activity is, again, very broad and lacks any focus whatsoever. On this point, I repeat my conclusion above in that I find it difficult to imagine that one business would use a trade mark on such a wide range of goods and services.

23. I also agree with this. The Applicant made no real attempt to grapple with the state of the law as explained by the Supreme Court in *Skykick*. It neither filed evidence nor sought to explain by submission how it could credibly expect to be able to use the mark across even a fraction of the goods and services in the specification.

24. In *Skykick* Lord Kitchen gave the following example in [253]-[254] of what might amount to bad faith, which the Hearing Officer quoted:

> 253. This proposition may be tested by taking an example provided by counsel for the Comptroller-General, namely a person who applies to register a mark in respect of everything in all 45 classes of goods and services. Here the width and size of the specification would, absent a satisfactory explanation, justify a finding of abuse on the basis that the applicant had intentionally taken advantage of the rules by creating artificially the conditions laid down for obtaining a registration with unduly wide protection: see also *Hasbro*, para 72; and, in a different context, *Eichsfelder Schlachtbetrieb GmbH v Hauptzollamt Hamburg-Jonas* (C-515/03) EU:C:2005:491; [2005] ECR I- 7355, para 39 and the case-law cited there.
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> 254. Once that proposition is established, as I think it is, then it must be a matter of degree whether the objective circumstances, that is to say, the width and size of the specification of goods and services and their nature, as compared to the size and nature of the applicant's business (or lack of it) are such as to rebut the presumption of good faith and so justify the conclusion that the application was filed, at least in part, for a purpose other than in connection with the proper functions of a trade mark, that is to say to denote the origin of the goods or services to which it is applied."

25. Applying this test, the Hearing Officer explained in §74 that he considered the Applicant had intentionally sought to take advantage of the trade mark registration system by seeking to obtain a registration with unduly wide protection. This was in spite of the fact that it had not sought registration in every class – the sheer size of the specification was enough, spread across 13 classes and given the arbitrary and disparate nature of the goods and services recorded in part above.

26. I am in no doubt that the Hearing Officer applied the right test. *Skykick* requires that the tribunal should compare the nature, width and size of the specification with the nature and size of the applicant's business (or lack of it) and ask whether this can rebut the presumption of good faith.

27. As to this, the Hearing Officer explained in §75:

> In assessing the consideration set out in the preceding paragraph, I do not consider that the applicant has adequately indicated the actual scope of its business. On this point, I remind myself of the vague nature of the applicant's claim in that its aim is, essentially, to produce and sell commercial products and services on a global scale. This is an incredibly vague claim that cannot be said to point to any legitimate commercial activity. In light of this, I cannot see any real justification for the applicant applying for a trade mark that covers such a broad scope of goods and services so as to cover approximately 120 pages' worth of disparate terms. Without any assistance as to any specific (and narrower) business intentions, I am left to wonder what else the applicant could be doing other than seeking to use its mark to undermine the interest of third parties by seeking to register a trade mark for such a wide and disparate range of goods and services. As a result, I consider that there is a *prima facie* case that the application was indeed made with a dishonest intention, that is, to use the mark in order to undermine the objectives of third parties who may reasonably wish to use similar marks for the some of the disparate goods and services applied for (which, as above, the applicant has no intention to use).

28. He concluded:

> As a result of the above, I hereby find that the applicant's mark was applied for in bad faith. Given the sheer size and disparate nature of the applied for goods and services, and the lack of any clarity from the applicant in respect of *any* reasonable business intention, I am of the view that this finding applies to all of the goods and services applied for. As such, I find that the present ground succeeds in full.

THE APPEAL

29. At the hearing before me Mr Aslam explained that the Applicant's strategy was to purchase a domain name and a company, then apply for a trade mark. Only once it was registered did he consider that it was safe to start trading without risk of being accused of infringing another mark. He said that this was logical and that the strategy was adopted in good faith and with honest intentions.

30. He went on to submit that it was never the Applicant's intention to keep the registration for all the goods and that the intention to use was only in respect of certain classifications. The full specification had therefore been applied for in error,

which was to be explained because the UK was a new market. Mr Aslam accordingly accepted that the Hearing Officer was correct to hold that there was no genuine intention to use across the scope of the proposed specification.

31. Further, at no stage did Mr Aslam explain which goods or services in the 120 page specification were the ones which the Applicant did intend to use.

32. Even when he gave the example in oral submission of Class 4 oils and lubricants, he was only able to say that "if" the Applicant produced these goods it would wish to use ENERJO on them.

33. Finally, I should mention that appended to the Applicant's TM55 was a one page specification covering all 13 classes originally applied for but with a much-reduced list of goods and/or services in each. However, the list still covered items as diverse as manures in class 1, candles in class 4, incubators for eggs in class 7, cutlery in class 8, computer software and diving suits in class 9 and insurance services in class 36. This was put forward as a provisional amendment of the application consisting of "essential classifications". The Applicant also asked the Opponent if it would agree to a reduced specification.

Assessment

34. I can deal with the merits of the appeal against the Decision of the Hearing Officer quite briefly. In short, it is hopeless. An application for a 120 page specification by a company with no apparent assets and unsupported by any evidence of intention of use clearly satisfies the test set out in *Skykick* as amounting to bad faith. Further, Mr Aslam accepted that there was no genuine intention to use across the full scope at the hearing before me.

35. Applying Lord Kitchen's test, the width and size of the specification of goods and services and their nature, when compared to the size and nature of the applicant's business (or lack of it) plainly rebut the presumption of good faith. The Hearing Officer was both entitled and correct to reject the application before him.

36. Further, I have no basis to accept a narrower specification for a number of reasons:

    (a) Such a specification was not before the Hearing Officer and was only raised for the first time on appeal. If the Applicant did not in fact intend to use the mark across the full range of goods and services applied for, as it accepted before me, it could and should have narrowed the specification at a much earlier stage;

(b) Although the Applicant asked the Opponent if it would consent to a narrower specification – either the revised list or something even narrower – no consent was forthcoming. I explained to the Applicant that it was not my job to try to manage a negotiation between them. Nor is it the job of the Registry to try to identify the scope of a specification which might be acceptable;

(c) Even if I had considered that it was appropriate to substitute a new specification for the one before the Hearing Officer, the breadth of goods and services remains incredibly broad and disparate. In the absence of evidence I do not consider that the Applicant has made out a bona fide intention to use across any of the goods or services in the narrower specification;

(d) To put it another way, the Hearing Officer having correctly concluded that the presumption of good faith had been rebutted, there was nothing to overcome this, whether for the narrower specification or at all;

(e) Taking into account more recent events, which it must be permissible to do given the timing of the request to consider a narrower specification, the dissolution of the UK company and/or the suggestion that a US company with no presence in the UK or apparent licensing strategy is the true owner of the application only serves to cast more doubt on whether there is any genuine intention to use the mark in the UK.

37. So I reject any attempt to create a narrower specification on appeal.

38. I had no reason to doubt that Mr Aslam's beliefs about the correct strategy to employ for the business were not genuinely held. But they misunderstand trade mark law. It is possible to file evidence supporting a genuine intention to use without actually having commenced use, thereby avoiding the risk of a threat of infringement being made prior to obtaining a registration. Further, the very purpose of an open register is to allow precautionary searches to be carried out in advance of finalising a marketing strategy.

39. Moreover, the Opponent failed to establish that there was any likelihood of confusion as a result of its prior registered mark, and did not appeal this. So the risk of the Applicant being successfully sued for infringement of the proposed mark by the Opponent is much reduced. If it has any genuine intention to use the mark for any goods and services it can commence use in parallel with re-applying for the mark for these limited goods and services, which will provide supporting evidence of its bona fides.

40. For all these reasons I dismiss the appeal in its entirety.

COSTS

41. Below, the Hearing Officer ordered the Applicant to pay to the Opponent £1200.

42. Having failed in its appeal, I will make a further costs order against the Applicant. Given the alleged change of position in relation to the identity of the Applicant, and so as to best protect the interests of the Opponent, I will make the costs order jointly against Cashflow Corporation Limited and Cashflow LLC.

43. The paperwork in this appeal was minimal. To reflect this and the hearing which took place before me I assess the costs of the appeal in accordance with TPN 2/2016 at £1000.

44. I therefore order that Cashflow Corporation Limited and Cashflow LLC are jointly liable to pay to SE Bicycles Company Limited the sum of £2200 by 4pm on 16 January 2026.

Thomas Mitcheson KC
The Appointed Person
19 December 2025