

**TRADE MARKS ACT 1994**

**IN THE MATTER OF APPLICATION No. 2257677  
BY EASYBROKER INTERNATIONAL LIMITED  
TO REGISTER A SERIES OF TRADE MARKS  
IN CLASSES 9, 16, 36, 38 AND 41**

**AND**

**IN THE MATTER OF OPPOSITION THERETO UNDER No. 80443  
BY EASYGROUP IP LICENSING LTD**

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by Easygroup IP Licensing Limited**

### **Background**

1. On 11 January 2001 Easybroker International Limited applied to register EASYBROKER.CO.UK and EASYBROKER.COM as a series of two marks in respect of:

#### **Class 9:**

Computer software; data and instructional materials recorded optically, electronically or magnetically; publications in electronic form supplied on-line from databases or from the Internet; all for use in the field of global brokerage and trading.

#### **Class 16:**

Printed matter and marketing materials; all for use in the field of global brokerage and trading.

#### **Class 36:**

Financial services in the field of global brokerage and trading; stock brokerage services; portfolio management; employee stock plan administration services; advisory, consultancy and information services relating to the foregoing, and to investment finance; provision of the aforesaid services online from a computer network or via the Internet or extranets.

#### **Class 38:**

Telecommunications; provision of access to the Internet; providing on-line electronic bulletin board services; electronic transmission of data and messages, telecommunications access services; provision of on-line links to news, financial information, business information, current events and reference materials; telecommunication of information (including web pages), computer software and any other data; electronic mail services; providing telecommunications connections to the Internet or databases; advisory, consultancy and information services relating to the foregoing, including the provision of such services on-line from a computer network or via the Internet or extranet; all for use in the field of global brokerage and trading.

**Class 41:**

Providing on-line chat rooms all for use in the field of global brokerage and trading.

The application is numbered 2257677.

2. On 5 December 2001 easyGroup IP Licensing Limited filed notice of opposition. They say they are the proprietors by assignment of the various marks brief details of which appear in Annex A to this decision.

3. Companies in the Group are said to have made continuous use in the UK of the following marks:

EASYJET/easyJet	-	for paper goods, travel services and transportation services since 1995;
easyKiosk	-	for paper goods, the provision of food and drink and catering services since around 1999;
easyTech	-	for aircraft maintenance services since around 1999;
easyTrak	-	for transportation services since around 1999;
easyRentacar	-	for vehicle rental services since around 1999;
easyMoney and easyBank	-	for financial services;
easyJet Services	-	for paper goods and transportation services since around 2000;
easyEverything	-	for catering services, Internet services and leasing access time to a computer database since around 1999;
easyJet.com & logo easy.com	-	for free e-mail services since around 2000;
easyValue	-	for on-line price comparator services since 2000.

Objection is taken as follows:

(i) under Section 5(2)(b) on the basis of the following statement of particulars:

“The trade mark EASYBROKER.CO.UK EASYBROKER.COM applied for under No. 2257677 and advertised in Journal No. 6395,15666 so closely resembles the opponent’s trade marks referred to above, which contain the prefix easy, that it is likely to deceive or cause confusion. The Classes 9, 16, 36, 38 and 41 goods and services in respect of which the trade mark is applied for are

identical or similar to all the Class 9, 16, 18, 29, 30, 32, 33, 35, 36, 38, 39, 41 and 42 goods and services covered by the opponent's trade marks EASYJET, easyJet.com & logo, easyEverything (stylised), easycard, EASYTRAIN, EASYTRAK, EASYWEB, EASYEXTRAS, easyrentacar, EASY, EASYKIOSK, easyJet Services, EASYBUS, EASYTRAIN, easyJet tour, easyPay, easyMoney, easyTech, easyJet ramp, easyLife, easyKiosk, easydotcom, EASYCLICKIT, easyServices, easyRamp, EASYVALUE, EASYHOTEL, EASYODDS, easy (stylised), EASYJET GIFTS, easyValue.com & logo, easyJet.com the web's favourite airline, easy.com, EASYCAFE, EASYEVERYTHING, EASYPAY and easyJet. the Web's Favourite Airline"

(ii) under Section 5(3) on the basis of the following statement of particulars:

"To the extent that any of the goods and services of the opponent's earlier registrations and applications are considered dissimilar goods and services to those covered by application No. 2257677, registration of the Trade Mark also offends the provision of Section 5(3) because there are earlier trade marks in relation to which this Section applies. In this respect, the earlier trade marks EASYJET/easyJet, easyRentacar/EASYRENTACAR, EASYEVERYTHING/easyEverything of the opponent have a reputation in the UK and use of the later mark EASYBROKER.CO.UK EASYBROKER.COM on any of the services covered by the application without due cause, would take unfair advantage, or be detrimental to the distinctive character and repute of the earlier trade marks."

(iii) under Section 5(4)(a) on the basis of the following statement of particulars:

"Registration of the Trade Mark EASYBROKER.CO.UK EASYBROKER.COM is also contrary to Section 5(4)(a) on the basis that use could be prevented by virtue of a rule of law, namely, the law of passing off, protecting trade marks used in the course of trade. By virtue of the extensive use of the trade marks easyKiosk, easyMoney, easyBank, easyEverything, easyJet, easyRentacar and the many other trade marks of the opponent which have the prefix easy in relation to food, drink, travel services, paper goods, Internet café services, Internet services, on-line price comparator services, financial services, catering services, and transportation services, since the dates referred to above, the opponent has acquired a significant reputation and goodwill in the aforesaid trade marks and use by the applicant of the trade mark EASYBROKER.CO.UK EASYBROKER.COM would constitute a misrepresentation as to the origin of the services which would damage such goodwill."

4. The applicants filed a counterstatement denying each of the above grounds. A number of other points are made which can be briefly summarised as follows:

- the applicants note that not all the marks relied on by the opponents are in their name and many are still applications;

- further, particularisation is requested of the date of first use and extent of use of EASYMONEY and EASYBANK;
- it is noted that a number of the opponents' marks have a particular get-up or stylisation including colour claims which must be taken into account;
- reference is made to the case of EasyJet Airline Co Ltd v Tim Dainty (19 February 2001 Ch-Div);
- the claims as to identity or similarity of goods and services requires further particularisation;
- the opponents are to put to proof regarding their use and reputation.

There are other observations which amount to submissions which I note but need not record at this point.

5. Both sides ask for an award of costs in their favour.

6. Both sides filed evidence. The matter came to be heard on 23 May when the applicants were represented by Mr S Thorley of Her Majesty's Counsel instructed by Baker & McKenzie and the opponents by Mr P Roberts of Counsel instructed by Page White & Farrer.

### **Opponents' evidence**

7. The opponents filed a witness statement by James Rothnie, Director of Corporate Affairs for easyJet Airline and its related companies.

8. He says that easyJet Airline was launched in November 1995 as an operator of low cost scheduled airline services. I do not think there can be any doubt that since that time easyJet has acquired a considerable reputation in relation to such services. I do not, therefore, propose to summarise the extensive material supplied by Mr Rothnie in support of this claim. Suffice to say that an NOP poll carried out in April 2000 produced a recognition rate of over 80 per cent. The business principles that characterise the services are described by Mr Rothnie as low cost, simplicity and accessibility. They are attributes which he says, extend to the other 'easy' businesses.

9. In August 1998 it was announced that car rental services would be provided under the trade mark easyRentacar with extensive publicity from May 1999 onwards. It is said to be the world's first Internet only car rental company. easyRentacar has since been re-branded as easyCar. Unaudited estimates of turnover are £2 million for revenue between February 2000 and the end of September 2000. Within its first month of trading over 40,000 rental days in bookings were taken and there are said to have been around 65,000 visits to its website between May and December 1999, before it began trading in February 2000.

10. In 1999 a chain of Internet cafes was launched by the founder of easyJet airline across Europe beginning with a 500 seat branch in London. The business was carried out under the brand name easyEverything. Mr Rothnie says there are currently (his witness statement is dated

30 May 2002) five shops in London with others in Edinburgh, Glasgow, Manchester along with other European cities and New York. Visitor figures are given for the period between April 2000 and July 2001 spanning the material date but are not broken down by country. Turnover in the UK in the period June to 31 September 1999 under the mark easyEverything was £392,000 and turnover between June 1999 and June 2001 was £23.6 million. The website relating to easyEverything received 10 million visits in the year to 15 May 2000. easyEverything is currently being re-branded as easyInternetcafe.

11. Mr Rothnie says that easyGroup (UK) Limited is the investment vehicle for the group of companies and acts as an incubator for Internet start-up 'easy' businesses in new fields. These include a new on-line financial services company called easyMoney, easy.com which provides e-mail services, and an Internet portal under the trade mark easyValue which is an Internet price comparator allowing consumers to find the cheapest bargains for all types of goods and services.

12. Exhibited at JR1 is a selection of references in the press to 'easy' trade marks since August 1999 including easyMoney and easyBank. Documents 46-53 in JR1 are early references to these activities. Not all the subsequent press cuttings come from the period before the material date. I note that some of the banking/financial services activities are still referred to as being in the planning stage in press references from mid to late 2000. Mr Rothnie suggests that as a result of these press references "a significant proportion of the general public would have been aware at the date of the opposed application of the activities of easyGroup in relation to financial services, easyGroup has acquired a reputation in relation to easyMoney for such services, and the public would associate "easy" trade marks in this field with easyGroup. I would add that since the newspapers indicated uncertainty as to the precise "easy" trade mark that would be used and the precise company with which we would work with [sic], this increases the likelihood of confusion with other "easy" marks in this field, even when such marks are combined with house marks."

13. Further print-outs from websites of easyJet Airline and related companies are exhibited at JR2 including print-outs relating to financial services. I note that one of these contains a reference to "easyMoney.com launches with a credit card that can be dynamically personalised". It is dated 21 August 2001.

14. Mr Rothnie continues by saying that particular care has been taken to ensure that all the 'easy' businesses can deliver low cost services and use the same 'easy' brand identity. Thus in the case of easyMoney some £492,000 was spent to this effect between November 1999 and August 2000 before launch. Recognition of the 'easy' prefix is reflected in press coverage, examples of which are given at JR3 including references to easy car hire, easy Group umbrella, easy does it etc. Examples of the various methods of advertising the various 'easy' services are shown at Exhibit JR5. The exhibit is largely if not exclusively devoted to the airline, car rental and internet café businesses.

15. In total by the end of the year 2000 easyJet Airline Company Ltd is said to have spent over £40 million on advertising or promoting its business with the bulk of that amount, £30 million, being spent in the UK. The easyEverything and easyRentacar businesses have been promoted in the same manner with around £2.6 million spent in the UK between October 1999 and August 2000 in relation to easyEverything and over £500,000 spent on promotion in relation to easyRentacar in London alone by the end of 2000, including £312,610 spent on outdoor promotions, £173,418 on press and £79,733 on radio.

16. In addition to the above there has been significant press coverage of the services of easyJet Airline Company Ltd and related companies (Exhibit JR6).

17. Mr Rothnie says that easyJet and its related companies undertake a vigorous campaign to protect the 'easy' brand and to prevent unauthorised use. He then provides a detailed comparison of the applied for marks and goods/services against the marks and goods/services relied on by the opponents broken down into two categories (Classes 16 and 36 and then Classes 9, 38 and 41). He makes further submissions regarding the applied for series of marks and notes in particular that 'broker' is defined in the Oxford English Dictionary as a noun meaning an agent buying and selling for others, middleman, stockbroker etc. He concludes that 'broker' is descriptive and commonly used in relation to financial services in particular and the other goods and services applied for. He exhibits (JR7) an extract from the applicants' website to show that they offer a brokerage service.

18. In response to the applicants' comment in their counterstatement regarding ownership of the trade marks relied on by the opponents Mr Rothnie exhibits details (JR8) from the UK and Community Trade Mark Office websites along with assignment documentation. The remainder of Mr Rothnie's witness statement is a detailed response to points raised in the applicants' counterstatement. It largely consists of submissions. I take these points into account and will deal with them as necessary in my decision.

### **Applicants' evidence**

19. The applicants filed two witness statements by Savvas Liasis and Yasmine Hashim.

20. Mr Liasis is Chief Executive Officer and founder of the applicant company. He firstly sets out the history of the company which had its origins in a retail brokerage in Cyprus formed in February 1999. The decision was made to migrate the business to London to achieve Financial Services Authority (FSA) accreditation.

21. The nature of the business is described in the following terms:

“Using the state of the art technology and software together with financial and investment expertise, the applicant spent several years developing a global equity trading system. This has evolved into a unique system offering, electronic equity trading in over 70 markets worldwide through private networks, the Internet, telephones and fax. The products and services offered by the Applicant are aimed at institutional houses, fund managers, private banking institutions and smaller medium sized stockbrokers.”

and

“Although a considerable investment has gone into developing the EASYBROKER trading system, the applicant remains a brokerage services company not a technology company. Its “electronic retail access” (ERA) service is aimed at the smaller medium sized brokerages and independent financial advisors and can be accessed via telephone and the Internet. In addition to providing an electronic order routing system to over 70 markets, it contains a set of business and market analysis tools to enable smaller stock

brokers to offer a broader service to their client base. The applicant's "electronic order network" (EON) service is an institutional brokerage service for fund managers, original non-member brokers, proprietary brokers, private banks and central dealing desks and is accessed through private networks such as BLOOMBERG and SUNGUARD Transactional Network. Both these products and services, ERA and EON, are provided under the umbrella/house mark EASYBROKER."

22. Mr Liasis says that the name EASYBROKER was chosen to allude to how easy it is to trade in stocks on-line and gain access to equity markets worldwide from a single account. At the time the name was selected he was aware of easyJet but considered that the latter was simply an airline and travel company. As the opponents do not allege bad faith in the choice of name I do not need to say any more about this aspect of his evidence.

23. Reference is made to a number of other trade mark applications in the UK and other jurisdictions. One of them, UK No. 2257663, for the mark EASYBROKER.COM EASIER THAN YOU THINK was withdrawn after it was realised that it was deemed to be a retail phrase whereas EASYBROKER is not aimed at the retail market. This also followed opposition by the current opponents.

24. Mr Liasis describes in some detail the process of obtaining FSA authorisation. This is of marginal, if any, relevance to these proceedings save to note that the FSA has the power to require a name change if it considers that the chosen one would be misleading or inappropriate. No issue was raised in relation to the name EASYBROKER. The on-line trading service was launched in the UK on 12 March 2002. Mr Liasis emphasises that the applicants' trading services are aimed at institutions and small/medium sized brokerages rather than the general public. Any approaches from individuals are handled through the individual's broker. He contrasts this with services provided by easyJet companies which are aimed at the general public. Exhibits SL1-12 are supplied in support of the points made in Mr Liasis' witness statement.

25. A second witness statement has been filed in support of the applicants' case by Yasmine Hashim who is a Trade Marks Associate at Baker & McKenzie, their professional advisors in this matter.

26. She firstly deals with the earlier trade marks relied on by the opponents and notes that a significant number are still applications rather than registrations; that EASYBANK marks are not in the name of the opponents and that there are third party registrations/applications incorporating this element and having earlier filing dates. A number of other marks are said not to be in the name of the opponents. I comment in passing that there is no requirement in the UK law that an opponent must be the proprietor of the earlier trade marks relied on.

27. She goes on to comment on the use made by the opponents of their marks. In particular she suggests that the evidence only deals with use of EASYJET, EASYRENTACAR, EASYEVERYTHING and EASYMONEY. In relation to the latter she notes that use did not commence until after the material date in these proceedings and then only in respect of an on-line credit card product.

28. In relation to the word/element 'easy' she suggests that it is a common word of the English language in which the opponents cannot claim a monopoly. A body of exhibits is provided to demonstrate how prevalent use of the word is as follows:

- YH8 - a print out of UK and CTM applications and registrations. Of the 48 listed 16 have 'easy' as a first or prefix element;
- YH9 - a listing of over 1700 company names that include 'easy' as a prefix;
- YH10 - a BT phone disc print out showing some 460 entries for companies and businesses in the UK having 'easy' as a first element or prefix;
- YH11 and 12 - 106 active websites, identified using a Google search, that use 'easy' as the first element of their domain name. 13 relate to financial services;
- YH13 - print outs of five companies that have applied for or obtained approval from the FSA that have 'easy' as a prefix to the company name. The list includes the applicants themselves, a company thought to be connected with the opponents and three other entities viz Easy Mortgages, Easy2 Trade Direct Limited and Easylife Protection Ltd;
- YH14 - a print out of extracts from the website [www.easyhypocrite.com](http://www.easyhypocrite.com), a third party site set up to advise and promote the awareness of businesses that use or may plan to use the name 'easy' as part of their trading or domain name. Some 200 entities are listed including six in the financial services field. Also contained in this Exhibit is a WIPO decision *easyGroup (UK) Ltd & Others v Easymaterial.com Limited* (Case D 2000-0711). Ms Hashim says that in this case due to the existence of so many 'easy' prefixed domain names and corporate names in the UK, the WIPO panel was not persuaded, that easyGroup had a monopoly in 'easy' domain names.

29. There are in addition submissions bearing on similarity of the marks and goods/services which I will not record but will bear in mind.

30. Ms Hashim goes on to offer submissions and evidence bearing on the objections under Sections 5(3) and 5(4)(a). Again I do not propose to record this material in detail some of which refers back to and draws on previously mentioned exhibits. I should, however, record the following:

“Any references in press articles to the business of the opponent or its related companies at the material times always contain a reference back to EASYJET and/or its Chairman Stelios Haji-Ioannou. In particular, all the press articles in Exhibit JR3 of the opponent’s Evidence contain such references. Furthermore all the active web sites of the opponent or its related companies contain a clear indication on their respective home pages that the web site is linked to EASYJET. In particular there is a statement on the website [www.easygroup.co.uk](http://www.easygroup.co.uk) that states “*Welcome to the easyGroup website. This is the vehicle created by Stelios, the founder of EasyJet*”. Similar statements are contained on all the

other websites of the opponent or its related companies, EASYCAR.COM, EASYVALUE.COM, EASYMONEY.COM, EASYJET.COM. It is further noted that the get-up of all of the opponent's and related company businesses is in a distinctive orange and white livery, mainly which consists of plain white lettering against a bright orange background. Another common feature of the opponent's get-up in the marks is that the word "EASY" is used in combination with another word that describes the service to create one new word where the entire combined word is generally used in lowercase, other than the first letter of the second word which is in upper case. Colour print-outs of easyGroup's websites are attached at **Exhibit YH17.**"

31. Ms Hashim draws the conclusion that the opponents have no reputation in the EASY prefix alone without any orange and white get-up or at least not in relation to financial services. This view is supported by reference to a passage from the easyJet Airline v Dainty case referred to in the counterstatement.

### **Opponents' evidence in reply**

32. Mr Rothnie has filed a second witness statement. Most of his witness statement is by way of submissions on the applicants' evidence. The main points to emerge (in general terms) are:

- the applicants' activities abroad or after the filing date of their application are in principle irrelevant as are domain name registrations and FSA approval of the applicants' name;
- there is further explanation of the position on assignment of marks to the opponents. The effect has been to vest ownership of the various marks in easyGroup who then license companies within the Group to use the marks. Changes of proprietor details of a number of registrations have still to be completed;
- in principle the opponents' pending applications have the capacity to be earlier trade marks and must be considered;
- a copy of BBC v Talbot Motor Company, [1981] FSR 228 is exhibited in support of the proposition that substantial pre-launch publicity can be sufficient to found a reputation (this is in the context of the mark easyMoney);
- it would be open to the applicants to use their mark in a colour scheme similar to that employed by the opponents;
- the database information supplied by the applicants showing various uses of 'easy' particularly as a prefix is of uncertain relevance and accuracy and does not mean that the subject mark will not be confused with the opponents' marks;
- notwithstanding the restrictions applied to the specification of the application the goods and services still fall within the terms of the opponents' specifications.

33. That completes my review of the evidence to the extent I consider it necessary at this stage.

## The Law

34. This action has been brought under Sections 5(2)(b), 5(3) and 5(4)(a) of the Act. These read as follows:

“5.-(2) A trade mark shall not be registered if because -

- (a) it is identical with an earlier trade mark and is to be registered for goods or services similar to those for which the earlier trade mark is protected, or
- (b) it is similar to an earlier trade mark and is to be registered for goods or services identical with or similar to those for which the earlier trade mark is protected,

there exists a likelihood of confusion on the part of the public, which includes the likelihood of association with the earlier trade mark.

(3) A trade mark which -

- (a) is identical with or similar to an earlier trade mark, and
- (b) is to be registered for goods or services which are not similar to those for which the earlier trade mark is protected,

shall not be registered if, or to the extent that, the earlier trade mark has a reputation in the United Kingdom (or, in the case of a Community trade mark, in the European Community) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.

(4) A trade mark shall not be registered if, or to the extent that, its use in the United Kingdom is liable to be prevented -

- (a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, or
- (b) by virtue of an earlier right other than those referred to in subsections (1) to (3) or paragraph (a) above, in particular by virtue of the law of copyright, design right or registered designs.

A person thus entitled to prevent the use of a trade mark is referred to in this Act as the proprietor of an “earlier right” in relation to the trade mark.”

35. The first two grounds require the opponents to be the proprietors of earlier trade marks. In this respect Section 6(1)(a) and 6(2) are also relevant:

“6.-(1) In this Act an "earlier trade mark" means -

- (a) a registered trade mark, international trade mark (UK) or Community trade mark which has a date of application for registration earlier than that of the trade mark in question, taking account (where appropriate) of the priorities claimed in respect of the trade marks,
- (b) .....
- (c) .....

(2) References in this Act to an earlier trade mark include a trade mark in respect of which an application for registration has been made and which, if registered, would be an earlier trade mark by virtue of subsection (1)(a) or (b), subject to its being so registered.”

36. I will take the objections in order.

## SECTION 5(2)

37. In determining the matter under this head it is common ground that I should take into account the guidance provided by the European Court of Justice (ECJ) in *Sabel BV v. Puma AG* [1998] E.T.M.R.1, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc* [1999] E.T.M.R. 1, *Lloyd Schuhfabrik Meyer & Co GmbH v. Klijsen Handel B.V.* [2000] F.S.R. 77 and *Marca Mode CV v. Adidas AG* [2000] E.T.M.R. 723.

It is clear from these cases that:

- (a) the likelihood of confusion must be appreciated globally, taking account of all relevant factors; *Sabel BV v Puma AG*, page 224;
- (b) the matter must be judged through the eyes of the average consumer of the goods/services in question; *Sabel BV v. Puma AG*, page 224, who is deemed to be reasonably well informed and reasonably circumspect and observant - but who rarely has the chance to make direct comparisons between marks and must instead rely upon the imperfect picture of them he has kept in his mind; *Lloyd Schuhfabrik Meyer & Co. GmbH v. Klijsen Handel B.V.* page 84;
- (c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details; *Sabel BV v. Puma AG*, page 224;
- (d) the visual, aural and conceptual similarities of the marks must therefore be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components; *Sabel BV v. Puma AG*, page 224;

- (e) a lesser degree of similarity between the marks may be offset by a greater degree of similarity between the goods, and vice versa; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, page 132;
- (f) there is a greater likelihood of confusion where the earlier trade mark has a highly distinctive character, either per se or because of the use that has been made of it; *Sabel BV v. Puma AG*, page 224;
- (g) mere association, in the sense that the later mark brings the earlier mark to mind, is not sufficient for the purposes of Section 5(2); *Sabel BV v. Puma AG*, page 224;
- (h) further, the reputation of a mark does not give grounds for presuming a likelihood of confusion simply because of a likelihood of association in the strict sense; *Marca Mode CV v. Adidas AG*, paragraph 41;
- (i) but if the association between the marks causes the public to wrongly believe that the respective goods come from the same or economically linked undertakings, there is a likelihood of confusion within the meaning of the section; *Canon Kabushiki Kaisha v. Metro-Goldwyn-Mayer Inc*, paragraph 29.

38. For the purposes of the hearing the opponents placed reliance on six marks as follows:

MARK	No.	Status	Date
EASYMONEY	1731223 (CTM)	Pending	29 June 2000
easyValue	1857705 (CTM)	Registered	18 September 2000
EASY	1699792 (CTM)	Pending	9 June 2000
EASYJET	1232909 (CTM)	Registered	1 July 1999
EASYEVERTHING	1590561 (CTM)	Pending	4 April 2000
easy.com	2247942 (UK)	Pending	6 October 2000 (but with a priority date of 6 April 2000)

I infer that the opponents consider these marks offer them their best chance of success.

39. Full details of these particular registrations and applications are contained in Annex B to this decision. All either are or have the capacity to be earlier trade marks. The pending marks will only achieve that status if and to the extent that they eventually achieve registration (Section 6(2)).

40. I am required to consider each of the opponents' marks in turn.

A number of issues that arise are of general application. I have structured the following part of the decision so as to deal firstly with those issues that call for general comment or are common to each of the individual comparisons followed by the opponents' specific claims. The issues dealt with are as follows:

- (i) general observations on distinctive character;
- (ii) the effect of third party adoption/use of the EASY prefix;
- (iii) distinctive character of the applied for mark;
- (iv) observations on the average consumer;
- (v) application of Section 5(2)(b) having regard to the opponents' individual marks covering:
  - distinctive character
  - similarity of goods/services
  - similarity of marks
  - likelihood of confusion;
- (vi) the opponents' family of marks claim.

(i) **Distinctive character – general**

41. The position of the applied for mark must be considered against each of the earlier trade marks. That in turn involves an assessment of the distinctive character – inherent and/or acquired – of the various marks. I will deal with Counsels' submissions in relation to individual marks below. Underpinning all these submissions are the parties' differing views on the merits or demerits of the element EASY. Thus Mr Roberts' position was that the distinctive and dominant component of the application is the word EASY; that BROKER is simply descriptive of the goods and services; that .CO.UK and .COM are non-distinctive domain name indicators; and thus EASY is the only element performing a trade mark function. Consistent with that approach he submitted that EASY was also the distinctive and dominant element of his clients' marks – self-evidently so in the case of EASY and easy.com but also in the case of the other marks relied on.

42. Mr Thorley, not surprisingly, took the contrary position that EASY is descriptive in nature; the additional features of the respective marks cannot be ignored; the word BROKER would not be dropped from his clients' mark; marks must be compared as wholes; and care must be taken in circumstances where colour and presentation of the words play a part in use and consumer perception of the opponents' marks.

43. The outcome of this opposition turns critically on how the distinctive character of the parties' marks is viewed. For reasons which I will endeavour to explain in dealing with the individual trade marks relied on by the opponents I do not find this a straightforward matter to resolve for the following main reasons:

- the opponents' marks are not of uniform distinctive character. By any standard, for instance, EASYJET is likely to be more distinctive than EASY solus;

- that position is further complicated by the varying degrees of use shown;
- all the specifications are multi-class ones with the result that marks which may be descriptive or allusive in one Class may be less so (or not at all) in other Classes;
- the effect of third party adoption/use of EASY prefixed marks must be taken into account if and to the extent that it is likely to influence consumer perception of the distinctive character of this element of the respective marks.

(ii) **The effect of third party adoption/use of EASY**

44. The applicants' evidence seeks to show just how prevalent use of the word EASY has become. The material relied on is described by Ms Yashim and set out in Exhibits YH8 to YH14 as summarised above. Mr Roberts was critical of this evidence for the following main reasons:

- it includes state of the register material (Trade Marks or Companies House);
- it does not indicate whether the marks or company names have been used;
- the website prints were produced well after the material date and are uninformative as to date, scale or manner of use;
- a number of the sites suggest that they are small-scale enterprises and may even be US rather than UK sites.

45. These criticisms are not without force. Mr Thorley did not place heavy reliance on this part of his client's evidence in his skeleton argument and oral submissions. But he did suggest that evidence after the date is acceptable to show propensity for use (in this case of EASY) and hence that the public would readily comprehend use of EASY in the context of a trading name or style to indicate simplicity.

46. It is of some interest that the Companies House listings and BT phone disc evidence (YH9 and 10) show that such a large number of companies or traders have adopted EASY prefixed names – 1700 and 460 respectively. Even discounting the large number of dissolved or liquidated companies in YH9 one is still left with a substantial number.

47. Furthermore it seems highly unlikely that none of these has ever traded. The website material at YH11 has also been criticised as having been produced after the relevant date. I accept that that is so but I note that many of the individual sites contain references suggestive of an established trade. Thus easynet shows press releases dating back to 2000, easy-dial.com refers to a 15 August 2000 launch, EasyCover.com (an insurer) refers to being established in 1995 and there are numerous copyright references from dates well before 2001. There are, therefore, some contrary indications to weigh in the balance against the opponents' criticisms. Nevertheless without further and better particulars about the extent of use I am reluctant to draw firm conclusions as to consumer exposure to such names and marks. The most that can be said is that, taken collectively, it shows a widespread desire on the part of traders in a large number of product/service areas to adopt EASY prefixed names. Given the nature of the word and the

advent of the Internet as an alternative and easier way of doing business that is hardly a surprising state of affairs.

(iii) **Distinctive character of the applied for mark**

48. The distinctive character of each of the marks relied on by the opponents is dealt with below. It will be convenient at this point to set out my views on the applied for series of marks as a preliminary step to determining below whether they capture the distinctive character of all or any of the opponents' marks.

49. The two marks of the series are made up of three elements conjoined, that is the words EASY, BROKER and the domain name indicator .co.uk and .COM. Mr Roberts' view was to the effect that the word EASY is the only component which is performing any trade mark function and must, therefore, be regarded as the distinctive and dominant component. I do not accept that view of the matter. Each of the elements is relatively weak, EASY for the obvious reason that it indicates simplicity, BROKER because it refers to the applicants' specialism of offering brokerage services and the domain name indicators because they indicate an Internet based trading style. BROKER is strictly the person or a firm that offers the goods and services concerned (brokerage) but that is scarcely likely to confer a significant additional distinctive character. The mark is thus a relatively weak one where no single element stands out and the whole conveys a message, as many trade marks do, about the nature of the underlying goods and services, in this case combined also with an indication of the mode of trade.

(iv) **The average consumer**

50. The average consumer is deemed to have the qualities set out in the *Lloyd Schuhfabrik* case. The applicants' evidence stresses that their core services are aimed at professional intermediaries in the financial services field. Any approaches from individuals are routed to that individual's broker. Their specification of goods and services has been limited to a trading area (global brokerage and trading) but not a particular customer profile. It would thus be within the boundaries of normal and fair use to offer their goods and services to private individuals notwithstanding their current activities and intentions. Theoretically at least that places the parties in the same marketplace, with both offering or being able to offer their goods and services to the public at large. In the case of the applied for services it is reasonable to assume that customers will be reasonably well informed and will exercise some care and attention in brokerage matters given the nature and importance of such issues.

(v) **Application of Section 5(2)(b)**

51. With the above general observations and findings in mind I go on to consider the opponents' case based on their individual marks.

**EASYMONEY – No. 1731223**

52. This mark is particularly relied on by the opponents. It has been applied for by the opponents in respect of Classes of goods and services which overlap directly with those of the application in suit. In particular it places the opponents in the financial services field.

53. The mark consists of a straightforward adjective/noun combination. They are presented in conjoined form but the conjoining does nothing to conceal or obscure the constituent elements. There is nothing inherently unusual about the words or the combination in which they appear. In fact the phrase appears in Collins English Dictionary as meaning:

“1. money made with little effort ... 2. *Commerce*. money that can be borrowed at a low interest rate.”

54. Without prejudice to whatever arguments the opponents may wish to advance separately in relation to issues of registrability (I emphasise that that issue is not before me), it must be considered a somewhat weak mark in relation to financial services and goods and services closely related thereto. It may be rather more distinctive in relation to many of the other goods and services encompassed within the CTM application. Where that is the case the distinctive character is likely to reside in the combination but with full weight being given to the element MONEY.

55. The opponents have not claimed use of the mark EASYMONEY prior to the material date. Exhibit YH6 to Ms Hashim’s witness statement suggests that use did not commence until August 2001 and then only in relation to a credit card service. Nevertheless the opponents say that EASYMONEY has been extensively invested in and promoted for over a year prior to its launch. It is said that £492,000 was spent between November 1999 and August 2000. Whether any of this expenditure in preparation for a launch made any impact on the public has not been made clear. Of potentially more value is the selection of press cuttings at Exhibit JR1 to Mr Rothnie’s witness statement. The opponents can point to references in a selection of newspapers including nationals such as The Mirror, The Times, The Guardian etc. Most of the references are contained in articles dealing with other of Mr Haji-Ioannou’s businesses though a few lead with the EASYMONEY story. Others contain only fleeting reference to EASYMONEY. The venture is variously reported as involving ‘credit cards, loans, mortgage deals and a range of financial services’, ‘online financial services’, ‘an online bank’, ‘personal loans’. A few of the early references suggest that the names EASYMONEY or EASYBANK were being considered.

56. I have great difficulty in accepting that the collective force of this material, involving a few dozen press articles over a period of a year, was likely to have made a discernible impact on potential consumers. It may well be that a few people registered the fact that easyGroup/Mr Haji-Ioannou had plans to operate in the financial services field but sporadic references, which in some respects overstated what would eventually be offered, seem unlikely to have produced the effect claimed. The evidence certainly fails to elevate the distinctive character of the mark to the sort of household name status envisaged in the *DUONEBS* case BL O/048/01.

57. In summary the merits of the mark rest on its inherent qualities and the conclusions I have reached above.

58. No particular issues arise in relation to the respective goods and services. There is a direct overlap of Classes. Within these Classes the applicants’ goods and services are application-specific versions of the general terminology employed in the opponents’ specifications. Thus, for instance, computer software for use in the field of global brokerage and trading must be

considered a sub-set of the opponents' general term computer software. I, therefore, take the view that for the most part identical goods and services are involved.

59. Turning to the marks themselves and applying the *Sabel v Puma* tests there is a measure of similarity arising from the presence of the word EASY as the first of the conjoined elements that make up the marks. Although it has been said that the eye is not always an accurate recorder of detail and allowance must be made for imperfect recollection, in my view, it is inconceivable that consumers will fail to give full weight to the other elements in the marks. The overall visual effect of the marks is markedly different. The same is also true from the perspective of aural appreciation of the marks. In his skeleton argument Mr Roberts suggested that "from the perspective of conceptual similarity Easybroker has not suggested that there is any distinction between the concept of EASYBROKER and, say, the concept of the marks EASYMONEY, EASYVALUE or EASY". I do not follow the logic of that line of argument. Leaving aside the fact that the applicants' marks are not EASYBROKER solus but also convey the idea of domain names, I can see no conceptual similarity save that BROKER and MONEY may be said to associate both marks with financial matters generally. But they do not represent interchangeable ideas and are in fact quite different in meaning. In my view, therefore, there is a low level of similarity between the marks based on their structure and content. To raise the level of similarity to any higher level would require me to accord the common element EASY a much greater significance than I feel able to give it. The character of the marks does not reside in that element alone.

60. On a global appreciation of the matter I see no likelihood of direct confusion between the marks. But that is not fatal to the opponents' case if the association between the marks causes the public to wrongly believe that the respective goods and services (which could be identical) came from the same or economically linked undertakings (*Canon v MGM above*). The opponents' position is likely to be at its strongest in relation to Class 36 services where the respective marks allude to financial matters. But neither mark is particularly strong and it is an area of trade where consumers can reasonably be expected to be discerning and careful in their choice of services. Even if consumers saw sufficient in the structure/presentation and content of the applied for marks to bring to mind the opponents' mark (and that much is uncertain) I do not consider any such association would result in a likelihood of confusion as to trade origin.

#### **easyValue – No. 1857705**

61. It is suggested on behalf of the opponents that EASY is the distinctive and dominant element because VALUE alludes to the fact that business carried on under the mark is that of providing online consumer price comparators. If VALUE is allusive in that respect it is no more so than EASY is (services that allow an easy comparison to be made). I, therefore, differ from the opponents in my view of the mark. The character of the mark resides in the unusual juxtaposition of words, easy being a somewhat unexpected adjective to find associated with the word value (in the sense that one might talk about fair value or good value but not usually easy value). I, therefore, think that the mark has a reasonable degree of distinctive character across a broad range of goods and services arising from the combination of elements.

62. The information on use of this mark (from November 2000 only) is thin and is extremely unlikely to have affected my view of the inherent qualities of the mark as at 11 January 2001.

63. The position in relation to comparison of goods and services is somewhat different to the previous mark. Classes 9, 16 and 38 contain identical goods and services on the basis of the principle that the general includes the specific. The applicants' Class 36 services have no immediate counterpart in No. 1857705. I note that the latter has travellers cheques in Class 16 but no submissions have been made suggesting that such items clash with the restricted nature of the applicants' Class 36 specification.

64. In comparing the marks much the same considerations apply in relation to visual and aural considerations as EASYMONEY. Both parties' marks are made up of common dictionary words. Conceptually easyValue is not a known or readily understood expression (such as EASYMONEY) but relies in part on a somewhat unusual collocation of words to create a distinctive identity but one which may not easily yield a specific meaning. The same is not true of the applied for series of marks which contain an overt reference to the nature of the underlying business namely an Internet based brokerage service.

65. I find no likelihood of confusion, direct or indirect, even in those Classes where identical goods and services may be involved.

#### **EASY - No. 1699792**

66. This is, of course, still a pending application so again my views on the mark are without prejudice to any issues that arise as to its registrability. It is presented here as an unused mark. It is a common dictionary word the meaning of which is readily comprehended. It would seem to be apt to describe a broad range of goods and services. If it is capable of achieving registration I would take the view that it can only have a very low level of distinctiveness.

67. On the basis of the current specification of this as yet pending mark it is apparent that identical goods and services are for the most part involved.

68. It is beyond dispute that the applied for series of marks contain the whole of the opponents' pending CTM application. But that is not to say that they capture the distinctiveness of the opponents' earlier trade mark (see 10 *Royal Berkshire Polo Club* [2001] RPC 32). In the context of the goods and services applied for the public would readily recognise that the applied for marks were making a statement about the nature of the goods and services involved and their means of delivery. They would be highly unlikely to focus on the common element to the exclusion of the other matter in the marks. The single point of visual and aural similarity would be overridden by the quite different perceptions created in the minds of consumers by the totality of the applicants' marks. The result is again that I do not consider there is a likelihood that a mistaken belief will arise that the opponents are making themselves responsible for the applicants' goods and services.

#### **EASYJET - No. 1232909**

69. This is the foundation brand of the Group. Mr Thorley accepted that there had been widespread use of easyJet in relation to low cost airline services but added the rider that the distinctive character of the mark resulted from a combination of features which included the use of lower case/upper case letters (that is with the J in upper case) and the orange and white livery. The position in this respect is not entirely clear as not all the exhibits before me are in colour.

However, enough are to suggest that there is some force in Mr Thorley's submission. That raises the question as to whether the use shown constitutes normal and fair use of the mark as registered.

70. The opponents' evidence in the form of promotional advertising (particularly the website material at JR2 and the press etc. advertising at JR5) has not been filed in colour. There are, however, sufficient references to easyJet in the body of the material to suggest that the public will have been educated to see that word alone as a badge of origin. There are also scattered references to other variant forms of the word, thus, for instance, EasyJet in the press reports at JR1 and EASYJET in JR6. But I am left with the clear impression that the form of the mark that is generally used is easyJet. It might be said that starting the word with a lower case e but placing an upper case letter at the start of the second element results in the presence of a feature which makes the totality perceptibly different from the plain block capital form in which it has been registered. On the other hand given that a mark registered in plain block capitals is usually understood to encompass use in other forms I have, not without hesitation, come to the view that I should take the opponents' use into account in determining the distinctive character of the mark. If I am wrong in that view and the presentational aspects of the marks in use are held to make a material difference to the mark in the form in which it is registered (that is to say beyond normal and fair use of the registered mark) then the consequences would be that distinctive character acquired through use would not be a factor for Section 5(2)(b) purposes and could only be brought into the reckoning in considering the opponents' case under Section 5(4)(a).

71. The point is not in my view of critical importance in the circumstances of this case as EASYJET is a mark which can claim to have a reasonable degree of distinctive character. Despite its apparently allusive nature the mark defies rational analysis. Strictly it is the associated travel services based on the principles of simplicity, low cost and accessibility that the opponents have sought to make 'easy' not the plane itself. The concept embodied in the mark captures the spirit of the opponents' operation but it does so in a clever and novel way. Given also the opponents' high profile as one of the first of the 'no frills' airlines and the level of use since 1995 I have little doubt that EASYJET is a good and strong mark considered in the context of the core airline services in Class 39. The registration relied on by the opponents covers a large number of other Classes. Although there is little, if any, evidence of use in relation to other goods and services it is reasonable to suppose that the mark has a highly distinctive (inherent) character for the balance of the specification where the element JET is more likely to be distinctive and to make an even greater contribution to the overall character of the mark.

72. There is again a large measure of overlap in terms of goods and services. Identical goods and services appear in the applicants' Classes 9, 16 and 38 specifications. Other Class 38 services may not be identical but are likely to be similar. I note that the opponents' registration does not cover Class 36. The latter are likely to be dissimilar services.

73. I do not need to repeat points already made in relation to the opponents' other marks about the visual and aural appreciation of the respective marks. I have already indicated how and why, I think, EASYJET functions as a strong trade mark. I accept that the average consumer does not try to dissect marks to see how they work but I do not think that prevents the consumer subliminally appreciating that marks work at varying degrees of complexity. Having regard to the *Sabel v Puma* criteria I am again of the view that there is no likelihood of confusion as to trade origin.

## **EASYEVERTHING - No. 1590561**

74. Again this application has yet to progress to registration. The distinctive character of the mark seems to me to reside in the bringing together of two very common words, one an adjective the other a pronoun, into an unusual whole, which carries no obvious or readily identifiable meaning. I regard it as having reasonably strong credentials taken from the point of view of its inherent characteristics.

75. The mark has also been used since June 1999 in relation to Internet café services. There was a quantum leap in turnover during the period June 1999 to June 2001. How much of this was attributable to the period before the relevant date is not clear. Exhibit JR5 suggests that by January 2001 the opponents had opened Internet cafés at various locations in central London, Manchester and Edinburgh (from May 2000). Even allowing for some wider reputation as a result of visitors to such areas I am unable to conclude that the opponents enjoyed a widespread reputation under the mark at the material date and certainly not such as might elevate the distinctive character of the mark beyond its inherent qualities.

76. The specification of No. 1590561 is similar to a number of the marks already considered and much the same considerations apply. In large measure identical goods are involved.

77. Again the visual and aural similarities between the respective marks is limited to the first element. Conceptually EASYEVERTHING has no defined or discernible meaning and, as noted above, depends in part on the unusual conjoining of an adjective and pronoun as a key part of its distinctive character. In contrast the marks applied for clearly allude to the nature of the underlying goods and services and the means of delivery of those goods and services. In short the applied for marks do not capture the distinctive character of the opponents' mark and I can see no likelihood of confusion.

## **easy.com - No. 2247942**

78. The characteristics of this mark are quite different from EASY solus. It would clearly be recognised as a domain name and taken as indicating ease of access, simplicity of use or some related idea. It is said to have been used for free e-mail services "since around 2000" though the evidence is silent as to the extent of any use. In relation to Internet services themselves it seems to me that the mark can at best be said to have only a modest claim to a distinctive character. The same is true to the extent that other goods and services within the applied for specification may be the subject of Internet ordering or be Internet based.

79. There is again a considerable overlap between the goods and services of the application and the opponents' pending application. In large measure identical goods are involved.

80. In the opponents' favour here the applied for marks have a number of features in common with the opponents' (pending) mark easy.com. Specifically, the second mark in the applied for series shares the elements easy and .com. There is also the conjoining of the elements of the marks but in the context of website addresses that is the normal form of presentation so it can scarcely be said to make a significant contribution to overall distinctive character. Against this, the applied for marks are much longer and it is inconceivable that the element BROKER will be missed or ignored during the course of visual or aural appreciation of the marks. Conceptually,

in common with all the other marks, the marks allude to simplicity or ease of operation. easy.com makes no reference to a specific area of trade, the EASYBROKER marks clearly do. It is the name BROKER which gives the mark context as it were and is likely to act as a reference point within the totality of the marks.

81. On a global appreciation of the matter having regard to the net effect of the similarities and differences in the marks I am unpersuaded that confusion as to trade origin can be considered likely. I believe that would be the case even if the opponents were to operate in the same business area as the applicants (as they would be entitled to do within the current scope of their specification) given the characteristics of the average consumer and the care taken in this area of trade.

(vi) **Family of marks**

82. In addition to their case based on individual trade marks the opponents have placed reliance on a claim to have a family of marks in relation to a broad range of on-line ‘e-tailored’ consumer services. Specifically, Mr Roberts referred to their reputation in financial services (EASYMONEY), price comparator services (easyValue), airline services (EASYJET), car rental services (easyRentacar), and the provision of access to the Internet (EASYEVERYTHING). All the above marks are contained in Annex B save for easyRentacar. The opponents have UK and CTM applications and registrations for this (or closely similar marks) under Nos. 1261502 (CTM), 1360981 (CTM) and 2212473 covering hire and rental of motor vehicles.

83. The concept of a family of marks is not a new one and can be found in *Beck Koller & Company (England) Limited’s* application, a case under the preceding law reported in [1947] RPC 76 (see in particular page 83). The applicability of the family of marks principle under the current Act was considered in *The Infamous Nut Co Ltd’s Trade Marks*, [2003] RPC 7 where Professor Annand, sitting as the Appointed Person, commented as follows:

“It is impermissible for s.5(2)(b) collectively to group together several earlier trade marks in the proprietorship of the opponent.

Section 5(2)(b) speaks of registration being refused on the basis of an earlier trade mark (as defined by s.6). Thus where the opponent relies on proprietorship of more than one earlier trade mark, the registrability of the applicant’s mark must be considered against each of the opponent’s earlier trade marks separately (*ENER-CAP Trade Mark* [1999] R.P.C. 362).

In some circumstances, it may be possible for the opponent to argue that an element in the earlier trade mark has achieved enhanced distinctiveness in the eyes of the public because it is common to a “family of marks” in the proprietorship and use of the opponent (*AMOR*, Decision no. 189/1999 of the Opposition Division, OHIM O.J. 2/2000, p.235). However, that has not been shown by the evidence to exist in the present opposition and cannot, as contended by Mr Walters on behalf of the opponent, be presumed from the state of the register in Classes 29 and 31.”

Further guidance can be found in *Torreomar Trade Mark* [2003] RPC 4:

“At this point it is necessary to observe that marks which converge upon a particular mode or element of expression may or may not be found upon due consideration to be

distinctively similar. The position varies according to the propensity of the particular mode or element of expression to be perceived, in the context of the marks as a whole, as origin specific (see, for example, *Wagamama Ltd v City Centre Restaurants Plc* [1995] F.S.R. 713) or origin neutral (see, for example *The European Ltd v The Economist Newspaper Ltd* [1998] F.S.R. 283).

The relevant propensity may, on established principles, be inherent or acquired through use. This leaves room for evidence demonstrating that the mode or element of expression in question has an established significance which the average consumer would take to have been carried through to the marks in issue.

The view that the established significance is origin specific may be supported by evidence directed to the way in which the mode or element of expression has been used as the basis for a “family” of distinctively similar marks: *Duonebs Trade Mark* January 2, 2001 SRIS O/048/01 (Mr Simon Thorley Q.C.); *The Infamous Nut Company Ltd’s Application* September 17, 2001 SRIS O/411/01 (Professor Ruth Annand); *Lifeforce International Inc.’s Application; Opposition of Novartis Nutrition AG* [2001] E.T.M.R. 106, p.1227 (Opposition Division, OHIM). The view that the established significance is origin neutral may be supported by evidence directed to the way in which the mode or element of expression has been used by traders and consumers more generally.

In neither case can the proposition in contention be substantiated simply by evidence of entries in the register of trade marks: entries in the register do not in themselves affect the way in which marks are perceived and remembered.”

84. It is thus a pre-requisite in establishing a family of marks that the claimant demonstrates use. It is only by use of marks with a common element that the public may come to attach significance to that element. I should put on record at this point that, whilst Mr Thorley dealt with the opponents’ claim at the hearing, he reserved the right to take a contrary view of the family of marks principle in a higher court if necessary.

85. So far as use of the opponents’ marks is concerned there is no dispute that EASYJET has been used in relation to airline services from 1995. EASYEVERYTHING has been used in relation to internet cafés from June 1999 but with a limited number of openings in the UK (London, Edinburgh and Manchester). easyRentacar has been used from about April 2000 in relation to car rental services again with a limited number of openings. The press releases in JR2 suggest that rental locations in London, Glasgow, Manchester and Birmingham were opened by August 2000. Mr Rothnie also mentions Liverpool but I am not clear when that location was opened.

86. The other claims to use (notably EASYMONEY and easyValue) seem to me to fail on the evidence or to lack substantiation sufficient to establish that they had made an impact on the public by the relevant date. The opponents’ case is, therefore, a limited one based on the circumstances set out above.

87. The scope and effect of a claim to a family of marks seems to me to be dependent on a number of factors including particularly:

- the number of marks in the family;
- the strength of the element that forms the basis of the claim and ....

- ..... the impact of that element within the totality of the marks in which it is used;
- the nature and extent of use;
- the range of goods and services in respect of which use has been shown including any connection that may exist between those goods and services;
- whether the mode or element of expression on which the family is based is one which may be used by traders and consumers more generally (see *Torreomar*).

88. Taking these points in turn, it has generally been accepted as a rule of thumb that the minimum number of marks necessary to constitute a series is three. All things being equal the larger number the greater the likelihood that use of the common element in relation to goods or services of common origin will influence the relevant public to expect other goods or services sold by reference to the family element to emanate from the same source. The opponents' claim here as at the relevant date meets the minimum threshold requirement for a family of marks but the restricted geographical coverage of the easyRentacar and EASYEVERYTHING marks somewhat curtails the overall impact.

89. It seems to me that, in principle, the stronger the inherent characteristics of a family element the easier it is likely to be to influence the expectation of consumers who subsequently encounter another mark incorporating that element. But the character of the family element is not all that matters. The character of the other matter in the family of marks – whether descriptive or distinctive – is likely to play a part (see the *ARMOR* decision).

90. The opponents claim here is based on a common dictionary word chosen to indicate or allude to a characteristic of the goods and services concerned. The family element does not make a strong impact in its own right only as part of the totality of the marks concerned.

91. Turning to the nature and extent of the opponents' use it seems to me that it is likely to be rather easier to establish a family of marks where those marks are used in relation to a closely related range of goods and services. Conversely, use in relation to a disparate range of goods and services is likely to make it rather more difficult to create recognition of a family element within the marks used. I regard EASYJET as having an extensive reputation in relation to airline services. The applicants accept that there had been use of the easyRentacar and EASYEVERYTHING marks by the material date. They do not concede that the use was extensive. It is reasonable to say that that use was geographically concentrated but in the case of the car rental business is likely to have enjoyed a somewhat enhanced reputation because of the close association with airline services and the complementary nature of those services. The Internet cafés were relatively few in number by the material date so their impact is difficult to gauge though I accept that there has been some cross-advertising with the airline services (see JR3).

92. That brings me to the final point as to whether the word on which the family is based may be used by other traders and consumers. Unless Ms Hashim's evidence is to be discounted completely there is a clear desire on the part of traders in a wide range of goods and services to

employ the word EASY both as a prefix and conjoined with other elements of varying degrees of descriptive character. The evidence does not address consumers' views and reactions. Given that the word EASY has only a weak claim to any inherent distinctive character the position may well be that consumers would consider EASYJET to be one of the earliest and best known examples of marks constructed in this manner but I am left in some doubt as to how far consumer recognition and expectation would stretch.

93. Making the best I can of the material before me I take the view that the opponents have a limited claim to a family of marks but based on a relatively weak element and not involving a widely diversified range of businesses by the material date. The main unifying feature of the businesses is that they all involve internet commerce to an appreciable extent and are aimed at a broad consumer market – they are not, of course, unique in this respect. Further there is evidence to suggest that other traders have adopted names/marks employing a similar mode of construction and employing EASY as a prefix. The result is that I am far from persuaded that consumers faced with the applicants' marks for the goods and services in question would consider that those goods and services emanated from the opponents as a result of the use of the element EASY. The Section 5(2)(b) case fails.

### SECTION 5(3)

94. The scope of the Section has been considered in a number of cases notably *General Motors Corp. v Yplon SA (Chevy)* [1999] ETMR 122 and [2000] RPC 572, *Premier Brands UK Limited v Typhoon Europe Limited (Typhoon)* [2000] FSR 767, *Daimler Chrysler v Alavi (Merc)* 2001 [RPC] 42, *C.A. Sheimer (M) Sdn Bhd's TM Application (Visa)* 2000 RPC 484 and *Valucci Designs Ltd v IPC Magazines, (Loaded)* O/455/00.

95. The objection here is framed in broad terms in the opponents' statement of grounds but based on dissimilar goods. In his skeleton argument Mr Roberts indicated that:

“easyGroup relies on its s.5(3) objection under its earlier marks easyJet, easyRentacar and easyEverything [Statement of Grounds para 5] primarily on the basis of its reputation built up in relation to the on-line consumer services referred to in paragraph 12.8 above. easyGroup submits that the effect of the recent Judgment of the ECJ in **Case C292/00 Davidoff & Cie SA v Gofkid Ltd** (9<sup>th</sup> January 2003, as yet unreported) is that even these similar services can be relied upon under s.5(3), which directly transposes Article 4(4)(a) of the Directive.

In the alternative, it is in any event submitted that easyGroup is entitled to rely on its reputation for any services (such as airline or car rental services, as distinct from their on-line provision) which the Registrar considers to be dissimilar to those specified in the application.”

96. Whilst I appreciate that following the *Davidoff* case it may be possible to rely on similar services for Section 5(3) purposes that is not the case pleaded by the opponents and there has been no request to amend the grounds. In any case, to the extent that Mr Roberts' case is based on the applicants' goods and services being similar to those for which the opponents' marks have a reputation because they are all on-line consumer services, I reject it. Services are not similar simply because they are supplied to consumers or because the means of trade is over the Internet.

97. The opponents' case under this head turns for practical purposes on their use of the marks relied on by Mr Roberts for airline services, car rental and the operation of Internet cafés. I accept that these are all dissimilar to the applicants' goods and services. When pressed I understand Mr Roberts' objection to be that use of the later marks would erode the distinctiveness of the opponents' marks by diluting their uniqueness in the market place.

98. The opponents must firstly establish their reputation. I have little difficulty in accepting that the mark EASYJET commanded the sort of reputation referred to in the *Chevy* case (see paragraphs 23 to 27 of that case). The position is less clear in the case of the other two marks. The guidance on *Chevy* is to the effect that:

“The degree of knowledge required must be considered to be reached when the earlier mark is known by a significant part of the public concerned by the products or services covered by that trade mark.” (paragraph 26).

Territorially it was said that:

“... a trade mark cannot be required to have a reputation “throughout” the territory of the Member State. It is sufficient for it to exist in a substantial part of it.”

99. The latter must be read in the context of the fact that General Motors were relying on a Benelux registration.

100. The opponents' car rental business was concentrated on a limited number of major UK cities as at the relevant date. The locations are, I think, cities from which the EASYJET airline flies though the locations do not appear to be at the airports themselves. Nevertheless there are likely to be spin-off advertising opportunities and the car rental business is in part targeted at EASYJET passengers (see the press releases in JR2). I have looked carefully at the press advertising of the rental car business and note that it is primarily focussed on national newspapers (The Observer, The Sunday Times, The Telegraph, Daily Mail etc.) That is not surprising given the nature of the business. As a consequence I believe it is reasonable to infer that the car rental business fairly quickly acquired a reputation in a substantial part of the UK and amongst a significant part of the public.

101. I do not accept that the same has been shown to be true of the Internet cafés. Only three or possibly four cities (the opening date in Glasgow is not clear) had cafés open by the material date. A number of the press and public display advertisements are not dated but appear to be photographs of London tube and bus advertising and Lothian bus advertising presumably relating to the Edinburgh site. Where press advertising identifies the publication in which the advertisement has been placed it shows Evening Standard (London) Evening News (Edinburgh), Time Out (primarily if not exclusively a London publication) and High Life. Not unexpectedly advertising of the Internet café services has been largely confined to the local press reflecting the nature of the services provided. I do not accept that EASYEVERYTHING can be said to have enjoyed a reputation that would meet the requirements set out in the *Chevy* case.

102. The question that arises, therefore, is whether use of the applied for series of marks would result in dilution of the uniqueness of the marks EASYJET or easyRentacar having regard to the

services in respect of which they have a reputation. Relevant considerations in determining the answer to this question seem to me to be those set out in *Oasis Stores Ltd's Trade Mark* application [1998] RPC 631. The Hearing Officer commented that:

“Any use of the same or a similar mark for dissimilar goods or services is liable, to some extent, to dilute the distinctiveness of the earlier mark. The provision is clearly not intended to have the sweeping effect of preventing the registration of any mark which is the same as, or similar to, a trade mark with a reputation. It therefore appears to be a matter of degree. In considering detriment under this heading it appears to me to be appropriate to consider:

1. The inherent distinctiveness of the earlier trade mark;
2. The extent of the reputation that the earlier mark enjoys;
3. The range of goods or services for which the earlier mark enjoys a reputation;
4. The uniqueness or otherwise of the mark in the market place;
5. Whether the respective goods/services, although dissimilar, are in some way related or likely to be sold through the same outlets;
6. Whether the earlier trade mark will be any less distinctive for the goods/services for which it has a reputation than it was before.”

103. Applying these considerations to the EASYJET mark I consider it to be inherently distinctive and to enjoy a high reputation; its use is largely confined to airline services; it is unique in the market place but that uniqueness rests on the totality of the mark not the EASY element; the respective goods/services are dissimilar to a high degree and are not obviously connected in any way save for the means of delivery (over the Internet); as a result I can see no reason why the opponents' mark should be any less distinctive in relation to the services for which it has a reputation than it was before. The case based on EASYRENTACAR is weaker in terms of the distinctive character of the mark (inherent and acquired) and in other respects offers the opponents no compensating advantages. Accordingly the case under Section 5(3) also fails.

#### **SECTION 5(4)(a)**

104. The requirements for this ground of opposition have been restated many times and can be found in the decision of Mr Geoffrey Hobbs QC, sitting as the Appointed Person, in *WILD CHILD* Trade Mark [1998] RPC 455. Adapted to opposition proceedings, the three elements that must be present can be summarised as follows:

- (1) that the opponents' goods or services have acquired a goodwill or reputation in the market and are known by some distinguishing feature;
- (2) that there is a misrepresentation by the applicants (whether or not intentional) leading or likely to lead the public to believe that goods or services offered by the applicants are goods or services of the opponents, and

- (3) that the opponents have suffered or are likely to suffer damage as a result of the erroneous belief engendered by the applicants' misrepresentation.

105. The *Wild Child* case goes on to set out the further guidance that is available in Halsbury's Laws of England (4<sup>th</sup> Edition) Vol. 48 (1995 reissue) in paragraphs 184 to 188. Mr Roberts accepts that his case under this head does not give rise to any appreciably different considerations than those considered under Section 5(2) above though I accept in principle that it may encompass a wider field of enquiry.

106. There is no doubt that for Section 5(4)(a) purposes I can take account of the various forms of the opponents' mark, that is to say including easyJet, the word in slightly bulbous lettering, the word with the device of an aircraft and the orange and white colour scheme. Similar considerations apply in relation to the other marks where use has been substantiated.

107. I must return at this point to the mark EASYMONEY and the opponents' claims in relation to this mark. I was referred to passages in *The Law of Passing-off* by Christopher Wadlow (at 2.25) and Halsbury's (at paragraph 309) in support of the claim that a passing off action can be sustained prior to the actual commencement of trading by the applicant. Two authorities in particular are referred to in both the above reference works, *Allen (W.H.) & Co v Brown Watson Ltd* [1965] RPC 191 and *British Broadcasting Co v Talbot Motor Co Ltd* [1981] FSR 228. It is common ground that use of EASYMONEY did not commence until after the relevant date but Mr Roberts relied on the press references to the proposed launch (Exhibit JR1). For reasons which I have already given I am unpersuaded that these press references made an impact on the general public. The material does not suggest to me a sustained and consistent attempt to alert the public to the actual launch of a specific new service. Rather, the material at JR1 trails the prospect of an expansion of Mr Haji-Ioannou's business into the financial services arena. Often this is on the back of press comment that is primarily devoted to other parts of his business empire. I do not think it can be said to set up any concrete expectation on the part of potentially interested consumers.

108. In contrast I note that in *Allen v Brown Watson* the plaintiffs were said to have acquired a distinctive reputation prior to launch of a book and in *BBC v Talbot* the Vice-Chancellor found that there was "ample evidence that a significant part of the public knew about the name CARFAX as distinctive of the BBC's system", a position that was supported by "many affidavits and letters, many articles and references in newspapers and periodicals, a television programme broadcast on the Top Gear programme ... and the distribution of over 100,000 copies of Radiomobile News and a broadsheet at the Motor Show ...". For the opponents here to have a credible case based on pre-launch publicity it seems to me that they would have needed to satisfy me that occasional press references divorced from other forms of publicity had achieved the claimed effect of priming public awareness and building a pre-launch reputation. That has not been shown to be the case. The opponents' case under Section 5(4)(a) must, therefore, rest on the use shown in relation to the marks EASYJET, EASYRENTACAR and EASYEVERYTHING and in the various forms in which these marks have been used.

109. Thus for practical purposes the opponents' position is no stronger than under Section 5(2) no matter whether their used marks are considered individually or on the basis that there is a family of marks in play. If the features of colour and other presentational aspects of the

opponents' marks are taken into account the effect is to put slightly more distance between them and the marks applied for.

110. I note too that in *Easyjet Airline Co. Ltd v Dainty* [2002] FSR 6 the Deputy Judge identified the features of the claimants' marks (paragraph 7) and noted the defendant's contention that the claimants could not claim entitlement to the word 'easy' (paragraph 11) but indicated in paragraph 16:

“16 I move from there to consider whether on the facts of this case the likelihood of deception has been made out. I agree with the defendant that the claimants are not entitled to appropriate the word “easy” and prevent any businessman from using any name which includes the word “easy”. However, in my judgment the test which requires to be established, that is to say that there is a likelihood of deception, is made out in this case not because the defendant has used the word “easy” but because of the four elements which I have already described as part of the livery or get-up of the claimants. As will also appear in due course, the notion that the defendant did not have the claimants' get-up in mind at the time he designed the web page is in my judgment simply not credible for a number of reasons. It seems to me that the design of the website was calculated to take advantage of as close an association with easyJet, as the defendant could devise. The benefit he sought was either the advantage of an association with their goodwill or direct investment funding by way of partnership with them or, more probably, the extraction from them of a proposition to buy him out, having regard to the similarity of the name that he had managed to obtain.”

111. That was a summary judgment case but the above reasoning is not irrelevant to the issue before me.

112. The features that the respective marks have in common are the element EASY and the fact that the individual elements of the marks (which are self evident) have been conjoined into a single word. The weakness of EASY as an element does not call for further comment. Furthermore, conjoining elements has become a convention in presenting names on the Internet. It is scarcely a novel or remarkable feature of names used in businesses which use the Internet as their primary mode of trade. In short having regard to the different fields of activity involved, the weaknesses of EASY as a distinctive feature in its own right and the differences between the applicants' series of marks and the opponents' signs taken as wholes I am unable to find that there will be any misrepresentation on the applicants' part likely to lead the public to believe that their goods and services are goods and services of the opponents.

113. I should, however, comment briefly on a reference in Mr Liasis's evidence that was relied on by Mr Roberts. Exhibit SL10 contains a number of items of press comment on the launch of the applicants' service. An article from Investment Week magazine (25 March 2002) headed “Easybroker in trading coup” describes the services on offer and goes on to say:

“The group also said that the service offers immediate electronic notification of order completion, as well as a global stock selection tool, enabling investors to pick stocks according to pre-selected criteria. The service is open to group and basket orders.”

114. Mr Roberts suggested that, taken together with the expectation that easyGroup was about to diversify into the online financial services market, the average consumer would take the reference to “The group” as an indication that EASYBROKER was another offshoot of the opponents’ business. The applicants, he noted, were not a group as such. Whether the latter is correct is debatable given that the applicants have an associated company in Cyprus. Regardless of whether that is correct I do not accept that journalistic references to a ‘group’ would convey to readers the sort of association that I am being asked to infer. It is a common term in the corporate world as can be seen from other references to ‘groups’ and ‘group’ in the article in question. I, therefore, differ from Mr Roberts in my reading of the article in question and the impression it is likely to convey.

115. The opponents fail to establish misrepresentation and potential damage within the meaning of the passing-off test and with it their case under Section 5(4)(a).

116. The opposition as a whole has failed. The applicants are entitled to a contribution towards their costs. In his skeleton argument Mr Thorley invited me to make an award well above the normal scale to reflect the fact that this had been a ‘heavy’ opposition and made heavier still by reason of the number of marks pleaded. There is some force to that submission in that the opponents were clearly not going to rely on all the registrations/applications pleaded. Mr Roberts quite rightly focussed on the six or seven marks that have featured at various points in this decision. Equally Mr Thorley confirmed that his clients’ evidence would have been no different if a smaller body of marks had been identified at the outset. The opponents would also have needed to file the evidence they have in support of their claims to use of their marks given the limited nature of the applicants’ admissions in this respect.

117. I believe I can deal with the net effect of these considerations by a small uprating of the costs I would have expected to award within the published scale. I order the opponents to pay the applicants the sum of £3200. This sum is to be paid within seven days of the expiry of the appeal period or within seven days of the final determination of this case if any appeal against this decision is unsuccessful.

**Dated this 20 day of June 2003**

**M REYNOLDS  
For the Registrar  
the Comptroller-General**

## ANNEX A

Opponents' UK and CTM applications and registrations (registrations unless otherwise identified in what follows):

No.	Mark	Class(es)
UK 2016785	EASYJET	16, 39, 42
UK 2112957	EASYTRAIN	39
UK 2112956	EASYBUS	39
UK 2168662	easyTrak/EASYTRAK	16, 39, 42
UK 2168668	easyWeb/EASYWEB	16, 39
UK 2168672 CTM 848424 (application)	easy extras (series of 4)	16, 18, 36, 39, 42 16, 18, 36, 39, 42
CTM 931790 (application)	EASYCAFÉ	9, 29, 30, 32, 33, 35, 38, 42
UK 2182641	EASY EVERYTHING	42
UK 2184827a UK 2184827b (application)	easyCard (series of 2)	9, 25, 29, 30, 32, 33, 35, 38, 42 9, 25, 29, 30, 32, 33, 35, 38, 42
UK 2184833a (application) UK 2184833b (application)	easyPay (series of 2)	9, 25, 29, 30, 32, 33, 35, 38, 42 9, 25, 29, 30, 32, 33, 35, 38, 42
UK 2184834 (application)	easyMoney (series of 2)	9, 25, 29, 30, 32, 33, 35, 38, 42
CTM 1132596	easyJet. the web's favourite airline	39, 41
CTM 1128743	easyTech	12, 37, 39
UK 2198933 (application) CTM 1196138	easyKiosk (series of 4)	16, 42 16, 42
CTM 1232909 (application)	EASYJET	3, 9, 16, 18, 25, 29, 30, 32, 33, 34, 38, 39, 41, 42
UK 2202916 CTM 1243948	easyEverything (series of 4)	42 9, 35, 38, 41, 42
CTM 1261502 (application)	easyrentacar	39
CTM 1343359	easyLife	16, 35, 39
CTM 1343300 (application)	easy.com	16, 35, 39
UK 2212473 CTM 1360981 (application)	easyRentacar & logo	39 39
CTM 1383157 (application)	easyJet tours	16, 39, 42
UK 2219661 CTM 1472273 (application)	easyJet Services	16, 39, 42 16, 39, 42
CTM 1588326 (application)	easydotcom logo	9, 16, 35, 36, 38, 39, 41, 42
CTM 1593326 (application)	easyjet.com & logo	3, 9, 16, 18, 25, 30, 32, 33, 34, 35, 38, 39, 41, 42
CTM 1590561 (application)	EASYEVERYTHING	9, 16, 25, 35, 36, 38, 39, 41, 42
UK 2230279	EASYCLICKIT	9, 16, 35, 36, 38, 39, 41, 42
UK 2232031 CTM 1661834	easyJet ramp	16, 39 16, 39

CTM 1699792 (application)	EASY	9, 16, 35, 36, 38, 39, 41, 42
CTM 1731223 (application)	EASYMONEY	9, 16, 35, 36, 38, 39, 41, 42
CTM 1770593 (application)	EASYCLICKIT	9, 16, 35, 36, 38, 39, 41, 42
UK 2240412 (application)	easydotcom logo	9, 16, 35, 36, 38, 39, 41, 42
CTM 1796564 (application)	easyLife	16, 35, 36, 39
UK 2241945 (application)		16, 35, 36, 39
UK 2242495 (application)	easyServices	16, 39, 42
CTM 1821354 (application)		16, 39, 42
UK 2242492 (application)	easyRamp	16, 39
CTM 1821370 (application)		16, 39
UK 2245768 (application)	EASYVALUE (series of 2)	9, 16, 35, 36, 38, 39, 41, 42
CTM 1857705 (application)		9, 16, 35, 38, 39, 41, 42
UK 2246286 (application)	EASYHOTEL (series of 2)	9, 16, 25, 29, 30, 32, 33, 35, 36, 38, 39, 41, 42
CTM 1866706 (application)		9, 16, 25, 29, 30, 32, 33, 35, 36, 38, 39, 41, 42
UK 2247942 (application)	easy.com	9, 16, 35, 36, 38, 39, 41, 42
UK 2248962 (application)	EASYODDS (series of 2)	9, 16, 28, 38, 41, 42
CTM 1902394 (application)		9, 16, 28, 38, 41, 42
UK 2249416 (application)	easyEverything the world's largest Internet cafes & logo	9, 16, 35, 36, 38, 39, 41, 42
CTM 1976679 (application)	easy (stylised)	9, 16, 25, 28, 29, 30, 32, 33, 35, 36, 38, 39, 41, 42
UK 2253872 (application)		9, 16, 25, 28, 29, 30, 32, 33, 35, 36, 38, 39, 41, 42
UK 2253810 (application)	EASYJET GIFTS (series of 2)	3, 9, 12, 14, 16, 18, 25, 28, 29, 30, 32, 33, 34, 35, 38, 39, 41, 42
CTM 1983667 (application)		3, 9, 12, 14, 16, 18, 25, 28, 29, 30, 32, 33, 34, 35, 38, 39, 41, 42
UK 2253812 (application)	easyJet.com & plane livery	3, 9, 14, 16, 18, 25, 28, 29, 30, 32, 33, 34, 35, 38, 39, 41, 42
CTM 1984079 (application)		3, 9, 14, 16, 18, 25, 28, 29, 30, 32, 33, 34, 35, 38, 39, 41, 42
UK 2254310 (application)	GO EASYJET	16, 39, 42
UK 2255323 (application)	easyValue.com & logo (series of 2)	9, 16, 35, 36, 38, 39, 41, 42
UK 2255933 (application)	EASYJET.COM THE WEB'S FAVOURITE	3, 9, 12, 14, 16, 18, 25, 28, 29, 30, 32, 33, 34, 35, 38, 39, 41, 42
CTM 2015287 (application)		3, 9, 12, 14, 16, 18, 25, 28, 29, 30, 32, 33, 34, 35, 38, 29, 41, 42

A number of the above marks are in stylised form or contain device elements. These are not reproduced above.

**ANNEX B**

Registrations/applications relied on by the opponents for Section 5(2) purposes:

<b>No.</b>	<b>Mark</b>	<b>Class</b>	<b>Specification</b>
1731223(CTM)	EASYMONEY	09	Computer software; computer hardware; pre-recorded CD Roms and other disk carriers; sunglasses.
		16	Printed matter and publications; books, manuals, pamphlets, newsletters, brochures, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; documents, tickets and publications, all relating to travel arranged by means of the world-wide web; travel documents folders; travel guide books, travellers cheques; playing cards; identity cards; labels and tags; posters, postcards, stationery, writing instruments, wrapping materials, calendars, diaries, photographs, gift cards and greetings cards; badges; teaching and instructional materials; promotional and advertising material; signs of paper or cardboard.
		35	Advertising, business management; business administration; office functions; publicity, promotional services, import-export agency services, business information services, organising exhibitions for commercial or advertising purposes; auctioneering services; on-line processing of mail orders; advice and consultancy relating to the aforesaid services.
		36	Financial and insurance services; monetary affairs, banking, banking services, real estate affairs; advice and consultancy relating to the aforesaid services.
		38	Communication services.
		39	Transportation of goods, passengers and travellers by air, airport check-in services; arranging of transportation of goods, passengers and travellers by land, bus

			<p>transport services, car transport services, coach services; airline services; baggage handling services; cargo handling and freight services; operating and providing facilities for tours; cruises, excursions and vacations; chartering of aircraft; rental and hire of vehicles, boats and aircraft; aircraft fuelling services, aircraft parking services; ambulance services; travel agency and tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, including information services provided on-line from a computer database or the Internet; travel reservation and travel booking services provided by means of the world-wide web.</p>
		41	<p>Information relating to entertainment and education, provided on-line from a computer database or the Internet; entertainment services provided on-line from a computer database or the Internet; educational information provided on-line from a computer database or the Internet; rental of electric and electronic goods, clothing, toys, games and playthings.</p>
		42	<p>Temporary accommodation; catering, hotel, restaurant, cafe and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services; security services; airport security services; airline passenger security screening services; design of computer software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; posting, creating and maintaining websites for others; leasing access time to a computer database; provision of access to computers and the Internet; Internet services; provision of on-line services.</p>

1857705(CTM)	easyValue	09	Computer software; computer hardware; pre-recorded CD Roms and other disk carriers; sunglasses.
		16	Printed matter and publications; books, manuals, pamphlets, newsletters, brochures, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; documents, tickets and publications, all relating to travel arranged by means of the world-wide web; travel documents folders; travel guide books; travellers cheques; playing cards; identity cards; labels and tags; posters, postcards, stationery, writing instruments, wrapping materials, calendars, diaries, photographs, gift cards and greetings cards; badges; teaching and instructional materials; promotional and advertising material; signs of paper or cardboard.
		35	Advertising; business management; business administration; office functions; publicity, promotional services, import-export agency services, business information services, organising exhibitions for commercial or advertising purposes; auctioneering services; retail services.
		38	Telecommunication services.
		39	Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land; bus transport services, car transport services, coach services; airline services; baggage handling services; cargo handling and freight services; operating and providing facilities for tours; cruises, excursions and vacations; chartering of aircraft; rental and hire of vehicles, boats and aircraft; aircraft fuelling services, aircraft parking services; ambulance services; travel agency and tourist office services; advisory and information services relating to the

			<p>aforesaid services; information services relating to transportation services, including information services provided on-line from a computer database or the Internet; travel reservation and travel booking services provided by means of the world-wide web.</p> <p>41 Information relating to entertainment and education, provided on-line from a computer database or the Internet; entertainment services provided on-line from a computer database or the Internet; educational information provided on-line from a computer database or the Internet; rental of electric and electronic goods, toys, games and playthings.</p> <p>42 Temporary accommodation; catering, hotel, restaurant, cafe and bar services; reservation services for hotel accommodation; provision of exhibition facilities; rental of clothing; meteorological information services; hairdressing, grooming and beauty salon services; security services; airport security services; airline passenger security screening services; design of computer software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; posting, creating and maintaining websites for others; leasing access time to a computer database; provision of access to computers and the Internet; Internet services; provision of on-line services.</p>
1699792(CTM)	EASY	09	Computer software; computer hardware; pre-recorded CD Roms and other disk carriers; sunglasses.
		16	Printed matter and publications; books, manuals, pamphlets, newsletters, brochures, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; documents, tickets and publications, all relating to travel arranged by means of the world-wide web; travel documents folders; travel guide books; travellers cheques; playing cards;

			identity cards; labels and tags; posters, postcards, stationery, writing instruments, wrapping materials, calendars, diaries, photographs, gift cards and greetings cards; badges; teaching and instructional materials; promotional and advertising material; signs of paper or cardboard.
		35	Advertising; business management; business administration; office functions; publicity, promotional services, import-export agency services, business information services, organising exhibitions for commercial or advertising purposes; auctioneering services.
		36	Financial and insurance services.
		38	Telecommunication services; provision of access to information provided on line from a computer database or with facilities from the Internet.
		39	Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land; bus transport services, car transport services, coach services; airline services; baggage handling services; cargo handling and freight services; operating and providing facilities for tours; cruises, excursions and vacations; chartering of aircraft; rental and hire of vehicles, boats and aircraft; aircraft fuelling services, aircraft parking services; ambulance services; travel agency and tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, including information services provided on-line from a computer database or the Internet; travel reservation and travel booking services provided by means of the world-wide web.
		41	Information relating to entertainment and education, provided on-line from a

		42	<p>computer database or the Internet; entertainment services provided on-line from a computer database or the Internet; educational information provided on-line from a computer database or the Internet; rental of electric and electronic goods, clothing, toys, games and playthings.</p> <p>Temporary accommodation; catering, hotel, restaurant, café and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services; security services; airport security services; airline passenger security screening services; design of computer software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; posting, creating and maintaining websites for others; leasing access time to a computer database; provision of access to computers and the Internet; Internet cafe services.</p>
1232909(CTM)	EASYJET	03	<p>Preparations and substances for use in the care and appearance of the hair, scalp, lips, face, skin, teeth, nails and eyes; cosmetics; non-medicated toilet preparations; perfumes, fragrances, colognes and scents; soaps and cleaning preparations; shampoos, conditioners, moisturisers and rinses; tooth cleaning preparations; depilatory preparations; sun-screening and tanning preparations; anti-perspirants deodorisers and deodorants; cotton wool; essential oils; preparations and substances for use in massage and aromatherapy.</p>
		09	<p>Electric, electronic, communications, photographic, measuring, signalling, checking, scientific, optical, nautical, life-saving and surveying apparatus and instruments; computer software, hardware and firmware; computer games software; apparatus, instruments and media for recording, reproducing, carrying, storing, processing, manipulating, transmitting,</p>

			<p>broadcasting and retrieving publications, text, signals, software, information, data, code, sounds, and images; audio and video recordings; audio recordings, video recordings, music, sounds images, text, publications, signals, software, information, data and code provided via telecommunications networks, by online delivery and by way of the Internet and world wide web; sound and video recordings; sound and video recording and playback machines; coin freed apparatus; arcade games; televisions and television game apparatus and instruments; photographic and cinematographic films prepared for exhibition; photographic transparencies; non-printed publications; educational and teaching apparatus and instruments; electronic, magnetic and optical identity and membership cards; sunglasses and sunvisors; protective clothing and headgear; parts and fittings for all the aforesaid goods.</p>
		16	<p>Printed matter and publications; wrapping and packaging; books, manuals, pamphlets, newsletters, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; identity cards; labels and tags; posters, postcards, calendars, diaries, photographs, gift cards and greeting cards; teaching and instructional materials.</p>
		18	<p>Leather and imitations of leather; goods made of leather or imitations of leather; skins and hides; trunks bags and travelling bags; purses, wallets, pouches and handbags; luggage; sports bags; bike bags; backpacks; umbrellas and parasols; harness and saddlery; parts and fittings for all the aforesaid goods.</p>
		25	<p>Clothing; headgear; footwear.</p>
		29	<p>Prepared meals; snacks and snack foods.</p>
		30	<p>Prepared meals; snacks and snack foods.</p>

		32	Mineral and aerated waters; beers; non-alcoholic drinks; fruit drinks and fruit juices; syrups and other preparations for making beverages.
		33	Alcoholic drinks (except beer); wines, spirits, liqueurs and cocktails.
		34	Cigarettes, cigars, snuff, tobacco, tobacco products, smokers' articles, lighters, matches.
		38	Provision of access to the Internet; Internet services.
		39	Transportation and storage; transportation of goods, passengers and travellers by land, sea and air; airline and shipping services; cargo and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; ambulance services; rental and hire of vehicles, boats and aircraft; travel agency and tourism services.
		41	Rental of electric and electronic goods, clothing, toys, games and playthings.
		42	Temporary accommodation; provision of food and drink; catering; hotel, restaurant, cafe and bar services; hotel management and reservation services; non-business professional consultancy; providing facilities for exhibitions and conferences; meteorological information services; hairdressing; grooming and beauty salon services; physical, mental and emotional health-care and well-being services; counselling; nursery, kindergarten and creche; services consultancy, advice, assistance, analysis, design, evaluation and programming services relating to computer software, firmware, hardware and information technology; provision of access to computers; on-line services; consultancy and advice relating to the evaluation, choosing and implementation

			of computer software, firmware, hardware, information technology and of data-processing systems; rental and licensing of computer software, firmware and hardware; provision of information relating to technical matters, legal matters, information technology, and intellectual property, including that provided via telecommunications networks, by online delivery and by way of the Internet and the World Wide Web; consultancy and advice relating to travel services.
1590561	EASYEVERTHING	09	Computer software; computer hardware; pre-recorded CD Roms and other disk carriers; sunglasses.
		16	Printed matter and publications; books, manuals, pamphlets, newsletters, brochures, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; documents, tickets and publications, all relating to travel arranged by means of the world-wide web; travel documents folders; travel guide books; travellers cheques; playing cards; identity cards; labels and tags; posters, postcards, stationery, writing instruments, wrapping materials, calendars, diaries, photographs, gift cards and greetings cards; teaching and instructional materials; promotional and advertising material; signs of paper or cardboard.
		26	Badges.
		35	Advertising; business management; business administration; office functions; publicity, promotional services, import-export agency services, business information services, organising exhibitions for commercial or advertising purposes; auctioneering services.
		36	Financial and insurance services.
		38	Telecommunication services; provision of access to computers and the Internet.

		39	<p>Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land; bus transport services, car transport services, coach services; airline services; baggage handling services; cargo handling and freight services; operating and providing facilities for tours; cruises, excursions and vacations; chartering of aircraft; rental and hire of vehicles, boats and aircraft; aircraft fuelling services, aircraft parking services; ambulance services; travel agency and tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, including information services provided on-line from a computer database or the Internet; travel reservation and travel booking services provided by means of the world-wide web.</p>
		41	<p>Information relating to entertainment and education, provided on-line from a computer database or the Internet; entertainment services provided on-line from a computer database or the Internet; educational information provided on-line from a computer database or the Internet.</p>
		42	<p>Temporary accommodation; catering, hotel, restaurant, café and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services; security services; airport security services; airline passenger security screening services; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; posting, creating and maintaining web-sites for others; leasing access time to a computer database; Internet cafe services; rental of clothing, toys, games and playthings; provision of information (relating only to services in Class 42) on-</p>

			line from a computer database or provided with facilities from the Internet.
2247942(UK)	easy.com	09	Computer software; computer hardware; pre-recorded CD Roms and other disk carriers; sunglasses.
		16	Printed matter and publications; books, manuals, pamphlets, newsletters, brochures, albums, newspapers, magazines and periodicals; tickets, vouchers, coupons and travel documents; documents, tickets and publications, all relating to travel arranged by means of the world-wide web; travel documents folders; travel guide books; travellers cheques; playing cards; identity cards; labels and tags; posters, postcards, stationery, writing instruments, wrapping materials, calendars, diaries, photographs, gift cards and greetings cards; badges; teaching and instructional materials; promotional and advertising material; signs of paper or cardboard.
		35	Advertising; business management; business administration; office functions; publicity, promotional services, import-export agency services, business information services, organising exhibitions for commercial or advertising purposes; auctioneering services.
		36	Financial and insurance services.
		38	Telecommunication services.
		39	Transportation of goods, passengers and travellers by air; airport check-in services; arranging of transportation of goods, passengers and travellers by land; bus transport services, car transport services, coach services; airline services; baggage handling services; cargo handling and freight services; operating and providing facilities for tours; cruises, excursions and vacations; chartering of aircraft; rental and hire of vehicles, boats and aircraft; aircraft fuelling services, aircraft parking services; ambulance services; travel agency and

			<p>tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, including information services provided on-line from a computer database or the Internet; travel reservation and travel booking services provided by means of the world-wide web.</p>
		41	<p>Information relating to entertainment and education, provided on-line from a computer database or the Internet; entertainment services provided on-line from a computer database or the Internet; educational information provided on-line from a computer database or the Internet; rental of electric and electronic goods, clothing, toys, games and playthings.</p>
		42	<p>Temporary accommodation; catering, hotel, restaurant, cafe and bar services; reservation services for hotel accommodation; provision of exhibition facilities; meteorological information services; hairdressing, grooming and beauty salon services; security services; airport security services; airline passenger security screening services; design of computer software; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; posting, creating and maintaining websites for others; leasing access time to a computer database; provision of access to computers and the Internet; Internet services; provision of on-line services.</p>