

**O/476/20**

**TRADE MARKS ACT 1994**

**IN THE MATTER OF INTERNATIONAL REGISTRATION NO. WO0000001360701  
DESIGNATING THE UNITED KINGDOM  
BY AEROTEK, INC:**



**IN CLASS 42**

**AND**

**IN THE MATTER OF OPPOSITION THERETO  
UNDER NO. 411802 BY  
EASYGROUP LIMITED**

## BACKGROUND AND PLEADINGS

1. International trade mark 1360701 (“the IR”) consists of the sign shown on the cover page of this decision. The holder is Aerotek, Inc. The IR is registered with effect from 9 June 2017. With effect from the same date, the holder designated the UK as a territory in which it seeks to protect the IR under the terms of the Protocol to the Madrid Agreement. The holder seeks protection for the mark in relation to:

Class 42      Engineering design services; engineering services in the field of energy efficiency; engineering services, namely, engineering in the fields of transportation, aerospace, construction and industrial equipment, technology, consumer electronics, medical devices, energy and utilities; product development consultation; product development for others; automotive design services; consulting in the field of industrial engineering; design and testing for new product development; design of engineering products; engineering design services; testing, analysis, and evaluation of the goods of others to assure compliance with industry standards; traffic and transportation engineering.

2. The request to protect the IR in the UK was published for opposition purposes on 1 December 2017. On 1 March 2018, easyGroup Limited (“the opponent”) opposed the protection of the IR in the UK based upon sections 5(2)(b) and 5(3) of the Trade Marks Act 1994 (“the Act”).

3. For the purposes of its opposition based upon section 5(2)(b), the opponent relies upon the following trade marks:

EASYJET

EUTM no. 10584001

Filing date 24 January 2012; registration date 9 January 2015

(“the First Earlier Mark”)

EASYGROUP

EUTM no. 10583111

Filing date 23 January 2012; registration date 3 July 2014  
("the Second Earlier Mark")

easyValue

EUTM no. 16140782

Filing date 7 December 2016; registration date 26 October 2017  
("the Third Earlier Mark")

easyLand

EUTM no. 16079675

Filing date 24 November 2016; registration date 14 July 2017  
("the Fourth Earlier Mark")



EUTM no. 15742224

Colours claimed: orange; white

Filing date 10 August 2016; registration date 19 September 2017  
("the Fifth Earlier Mark")



EUTM no. 14920383

Colours claimed: orange; white

Filing date 17 December 2015; registration date 1 July 2016  
("the Sixth Earlier Mark")

EASYBUS

EUTM no. 10735561

Filing date 16 March 2012; registration date 20 December 2012  
("the Seventh Earlier Mark")

EASYCAR

EUTM no. 10735553

Filing date 16 March 2012; registration date 20 December 2012

("the Eighth Earlier Mark")

4. The goods and services relied upon for the purposes of the opposition based on section 5(2)(b) are outlined in the Annex to this decision. The opponent claims that there is a likelihood of confusion because the marks are similar, and the goods and services are identical or similar.

5. Under section 5(3), the opponent relies on the First and Second Earlier Marks only and claims a reputation in respect of the class 39 services for which those marks are registered only. The opponent claims that use of the holder's mark would, without due cause, take unfair advantage of, or be detrimental to, the distinctive character and/or reputation of the earlier marks.

6. The opponent also originally sought to rely upon section 5(4)(a) of the Act, but withdrew that ground of opposition in writing on 18 November 2019.

7. The holder filed a counterstatement denying the claims made.

8. The opponent is represented by Kilburn & Strode LLP and the holder is represented by Marks & Clerk LLP. Both parties filed evidence. The opponent did not file evidence in reply. Neither party requested a hearing and only the holder filed written submissions in lieu. This decision is taken following a careful perusal of the papers.

## **EVIDENCE AND SUBMISSIONS**

9. The opponent filed evidence in the form of the witness statement of Ryan Edward Pixton dated 18 November 2019. Mr Pixton is the trade mark attorney acting on behalf of the opponent in these proceedings. His witness statement simply serves to introduce a witness statement prepared by Sir Stelios Haji-Ioannou dated 4 August 2018, a witness statement prepared by Christopher Griffin dated 4 April 2017 and

press articles and copies of Annual Reports from easyJet. I will not summarise the evidence here, but will refer to it below where necessary. The opponent's evidence was accompanied by written submissions dated 18 November 2019. Whilst I do not propose to summarise those here, I have taken them into consideration and will refer to them below where necessary.

10. The holder filed evidence in the form of the statutory declaration of Dana Baughns dated 17 January 2020. Ms Baughns is Vice President of the holder. Again, I will not summarise this evidence here, but will refer to it below where necessary. As noted above, the holder filed written submissions in lieu. I have taken these into consideration and will refer to them below where necessary.

## **PRELIMINARY ISSUES**

11. Ms Baughns' statement provides information about the use that has been made of the holder's mark in the United States since 1981 and in the United Kingdom since 2007. For the avoidance of doubt, the fact that the holder claims to have used its mark prior to the opponent's mark being applied for/registered, is not a defence in law to the opposition. Tribunal Practice Notice 4/2009 explains this as follows:

*“The position with regard to defences based on use of the trade mark under attack which precedes the date of use or registration of the attacker's mark.*

4. The viability of such a defence was considered by Ms Anna Carboni, sitting as the appointed person in *Ion Associates Ltd v Philip Stainton and Another*, BL O-211-09. Ms Carboni rejected the defence as being wrong in law.

5. Users of the Intellectual Property Office are therefore reminded that defences to section 5(1) or (2) grounds based on the applicant for registration/registered proprietor owning another mark which is earlier still compared to the attacker's mark, or having used the trade mark before the attacker used or registered its mark are wrong in law. If the owner of the mark under attack has an earlier mark or right which could be used to oppose or invalidate the trade mark relied upon by the attacker, and the applicant for registration/registered proprietor wishes

to invoke that earlier mark/right, the proper course is to oppose or apply to invalidate the attacker's mark."

12. The holder has not sought to invalidate the opponent's mark based on its claim to an earlier unregistered right. Section 72 of the Act provides that registration shall be taken as prima facie evidence of the validity of a registered trade mark. The opponent's trade marks must be regarded as validly registered and, in these circumstances, the law requires that priority be determined according to the filing dates of the applications for registration. This means that the opponent's marks have priority.

13. I also note that reference has been made to the fact that there have been no cases of confusion, despite the holder having been trading in the UK for a number of years. In *Roger Maier and Another v ASOS*, [2015] EWCA Civ 220, Kitchen L.J. stated that:

"80. ....the likelihood of confusion must be assessed globally taking into account all relevant factors and having regard to the matters set out in *Specsavers* at paragraph [52] and repeated above. If the mark and the sign have both been used and there has been actual confusion between them, this may be powerful evidence that their similarity is such that there exists a likelihood of confusion. But conversely, the absence of actual confusion despite side by side use may be powerful evidence that they are not sufficiently similar to give rise to a likelihood of confusion. This may not always be so, however. The reason for the absence of confusion may be that the mark has only been used to a limited extent or in relation to only some of the goods or services for which it is registered, or in such a way that there has been no possibility of the one being taken for the other. So there may, in truth, have been limited opportunity for real confusion to occur."

14. In *The European Limited v The Economist Newspaper Ltd* [1998] FSR 283 Millett L.J. stated that:

"Absence of evidence of actual confusion is rarely significant, especially in a trade mark case where it may be due to differences extraneous to the plaintiff's registered trade mark."

15. There may not be evidence of confusion for any number of reasons. For example, in practice, the parties may be trading in very different sectors. In any event, customers who are confused may never know that they have been confused and may not, therefore, report it to the party from which they purchased the goods or services. I do not, therefore, consider that this line of argument assists the holder.

## **DECISION**

### **Section 5(2)(b)**

16. Section 5(2)(b) of the Act reads as follows:

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

(a)...

(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.”

17. By virtue of their earlier filing dates, the trade marks upon which the opponent relies qualify as earlier trade marks pursuant to section 6 of the Act. The opponent's marks had not completed their registration processes more than 5 years before the publication date of the application in issue and are not, therefore, subject to proof of use pursuant to section 6A. Consequently, the opponent can rely upon all of the goods and services it has identified.

## Section 5(2)(b) – case law

18. The following principles are gleaned from the decisions of the EU courts in *Sabel BV v Puma AG*, Case C-251/95, *Canon Kabushiki Kaisha v Metro-Goldwyn-Mayer Inc*, Case C-39/97, *Lloyd Schuhfabrik Meyer & Co GmbH v Klijsen Handel B.V.* Case C-342/97, *Marca Mode CV v Adidas AG & Adidas Benelux BV*, Case C-425/98, *Matratzen Concord GmbH v OHIM*, Case C-3/03, *Medion AG v. Thomson Multimedia Sales Germany & Austria GmbH*, Case C-120/04, *Shaker di L. Laudato & C. Sas v OHIM*, Case C-334/05P and *Bimbo SA v OHIM*, Case C-591/12P:

(a) The likelihood of confusion must be appreciated globally, taking account of all relevant factors;

(b) the matter must be judged through the eyes of the average consumer of the goods or services in question, 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, and whose attention varies according to the category of goods or services in question;

(c) the average consumer normally perceives a mark as a whole and does not proceed to analyse its various details;

(d) the visual, aural and conceptual similarities of the marks must normally be assessed by reference to the overall impressions created by the marks bearing in mind their distinctive and dominant components, but it is only when all other components of a complex mark are negligible that it is permissible to make the comparison solely on the basis of the dominant elements;

(e) nevertheless, the overall impression conveyed to the public by a composite trade mark may be dominated by one or more of its components;

(f) however, it is also possible that in a particular case an element corresponding to an earlier trade mark may retain an independent distinctive



role in a composite mark, without necessarily constituting a dominant element of that mark;

(g) a lesser degree of similarity between the goods or services may be offset by a greater degree of similarity between the marks, and vice versa;

(h) there is a greater likelihood of confusion where the earlier mark has a highly distinctive character, either per se or because of the use that has been made of it;

(i) mere association, in the strict sense that the later mark brings to mind the earlier mark, is not sufficient;

(j) 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;

(k) if the association between the marks creates a risk that the public will wrongly believe that the respective goods or services come from the same or economically-linked undertakings, there is a likelihood of confusion.

### **Comparison of goods and services**

19. In *Gérard Meric v Office for Harmonisation in the Internal Market*, Case T- 133/05, the General Court (“GC”) stated that:

“29. In addition, the goods can be considered as identical when the goods designated by the earlier mark are included in a more general category, designated by trade mark application (Case T-388/00 *Institut for Lernsysteme v OHIM – Educational Services* (ELS) [2002] ECR II-4301, paragraph 53) or where the goods designated by the trade mark application are included in a more general category designated by the earlier mark.”

20. Although the opponent has relied upon a broad range of goods and services in its Notice of opposition, it considers that “scientific and technological services and

research and design relating thereto, industrial analysis and research services” in class 42 of the Second Earlier Mark’s specification encompasses all of the holder’s services. As identity of services represents the opponent’s best case, I will proceed on the basis that these services are identical.

21. I also note that specific submissions have been made by the opponent in relation to the similarity of its class 39 services to the applicant’s services. As this appears to be the primary focus of the opponent’s business, I will address these submissions for the sake of completeness. The opponent submits:

“7. The applied for services are similar to the services protected under the Opponent’s earlier marks. The applied for services include “engineering in the fields of transportation, aerospace”, which are similar to the Opponent’s various transportation and airline services. They are similar as they are all related to transport/air travel. Therefore, they have the same purpose and are complementary.”

22. The services will differ in use as one is intended for the transportation of goods/people from one location to another and the other is intended to provide engineering services, albeit in the related field. The method of use and nature of the services differ. The trade channels are also likely to differ because transport services will be purchased by members of the general public or business users whereas the applicant’s engineering services will be purchased by specialist transport/aerospace businesses. I do not consider the services to be in competition or complementary within the meaning of the case law.<sup>1</sup> Consequently, I consider the services to be dissimilar.

### **Average consumer and the nature of the purchasing act**

23. As the case law above indicates, it is necessary for me to determine who the average consumer is for the respective parties’ services. I must then determine the

---

<sup>1</sup> *Boston Scientific Ltd v Office for Harmonization in the Internal Market (Trade Marks and Designs) (OHIM)*, Case T-325/06

manner in which the services are likely to be selected by the average consumer. In *Hearst Holdings Inc, Fleischer Studios Inc v A.V.E.L.A. Inc, Poeticgem Limited, The Partnership (Trading) Limited, U Wear Limited, J Fox Limited*, [2014] EWHC 439 (Ch), Birss J described the average consumer in these terms:

“60. The trade mark questions have to be approached from the point of view of the presumed expectations of the average consumer who is reasonably well informed and reasonably circumspect. The parties were agreed that the relevant person is a legal construct and that the test is to be applied objectively by the court from the point of view of that constructed person. The words “average” denotes that the person is typical. The term “average” does not denote some form of numerical mean, mode or median.”

24. The average consumer for the services will be either a member of the general public or a business user. The cost of the services that I have found to be similar are likely to be fairly high. Various factors will be taken into account such as qualifications and efficiency. I recognise that for some of the services, for example, in the case of aerospace engineering services, the safety of the end users is likely to be a key consideration in ensuring that the standard of services provided is at the highest possible level. Overall, I consider that at least a medium degree of attention will be paid, with a higher degree of attention being paid for some of the services.

25. In its written submissions in lieu, the holder states:

“When purchasing the services offered by the Opponent under its earlier marks relied upon in these opposition proceedings, the relevant consumer is likely to see advertising material. When seeking to procure the engineering services offered by the Holder under the mark here opposed, the relevant consumer will see marketing and tender documentation, thus assessing the mark visually more than aurally. It is thus important to note that in the case of the marks at issue, the visual element would arguably carry more weight in the assessment of similarity than the aural element.”

26. The services are likely to be purchased through specialist outlets or websites. As the holder suggests, they are also likely to be encountered on marketing and promotional material. Visual considerations are, therefore, likely to dominate the selection process. However, I recognise that aural considerations cannot be discounted, given that enquiries may be made verbally and word-of-mouth recommendations may play a part.




### **Comparison of trade marks**

27. It is clear from *Sabel BV v. Puma AG* (particularly paragraph 23) that the average consumer normally perceives a trade mark as a whole and does not proceed to analyse its various details. The same case also explains that the visual, aural and conceptual similarities of the trade marks must be assessed by reference to the overall impressions created by the trade marks, bearing in mind their distinctive and dominant components. The Court of Justice of the European Union (“CJEU”) stated at paragraph 34 of its judgment in Case C-591/12P, *Bimbo SA v OHIM*, that:

“... it is necessary to ascertain, in each individual case, the overall impression made on the target public by the sign for which registration is sought, by means of, inter alia, an analysis of the components of a sign and of their relative weight in the perception of the target public, and then, in the light of that overall impression and all factors relevant to the circumstances of the case, to assess the likelihood of confusion.”

28. It would be wrong, therefore, to artificially dissect the trade marks, although it is necessary to take into account the distinctive and dominant components of the marks and to give due weight to any other features which are not negligible and therefore contribute to the overall impressions created by the marks.

29. The respective trade marks are shown below:

Opponent's trade marks	Holder's trade mark
<p>EASYJET ("the First Earlier Mark")</p>	
<p>EASYGROUP ("the Second Earlier Mark")</p>	
<p>easyValue ("the Third Earlier Mark")</p>	
<p>easyLand ("the Fourth Earlier Mark")</p>	
 <p>("the Fifth Earlier Mark")</p>	
 <p>("the Sixth Earlier Mark")</p>	
<p>EASYBUS ("the Seventh Earlier Mark")</p>	
<p>EASYCAR ("the Eighth Earlier Mark")</p>	

## Overall Impression

30. The First, Second, Third, Fourth, Seventh and Eight Earlier Marks all consist of the word EASY conjoined with another word (JET, GROUP, Value, Land, BUS and CAR respectively). The opponent notes that some of the marks overlap in the use of a mixture of upper and lower case text. However, the First, Second, Third, Fourth, Seventh and Eighth Earlier Marks are all word only marks and so can be used in any standard typeface; the presentation in title/upper case does not, therefore, have any impact upon the overall impression. The overall impression of these marks lies in the combination of these words. The Fifth Earlier Mark consists of the conjoined words “easyEnergy” presented in white font on an orange rectangular background. The overall impression lies in the combination of these elements, with the words playing a greater role and the font and colour playing a lesser role. The Sixth Earlier Mark consists of the word “easy” presented above the text “.com”, both in a white slightly stylised lower case font. These elements are presented on an orange rectangular background and surrounded by a white oval border. The overall impression lies in the combination of these elements, with the word “easy” playing the greater role due to its size.

31. The holder’s mark consists of the letters “EASi” presented in navy font, alongside a geometric device consisting of three triangles in orange, light blue and navy. The overall impression of the mark lies in the combination of these elements, with the letters “EASi” playing the greater role and the device and use of colour playing a lesser role.

## Visual Comparison

32. The First, Second, Third, Fourth, Seventh and Eighth Earlier Marks all overlap with the holder’s mark to the extent that the first three letters are EAS-. They differ in that the ending of the holder’s mark is -i and the ending of the earlier marks are -YJET, -YGROUP, -yValue, -yLand, -YBUS and -YCAR respectively. Registration of a mark in black and white covers use of that mark in any colour, so the difference created by the colour used in the holder’s mark is irrelevant. There is, however, also the device element of the holder’s mark which is absent from the earlier marks. Taking all of this

into account, I consider the marks to be visually similar to between a low and medium degree.

33. The same comparison applies for the Fifth and Sixth Earlier Marks, as they have the different endings -yEnergy and -y.com. I note that the opponent submits that the use of orange in these marks is similar to the use of orange in the holder's mark. Whilst both marks may use the colour orange to varying degrees, these are used in very different ways (being the background of the opponent's marks and only one element of the device in the holder's mark). I do not consider that this contributes significantly to the similarity between the marks. Taking all of this into account, I consider the marks to be visually similar to only a low degree.

#### Aural Comparison

34. The opponent submits:

"10. The Opposed mark and the Opponent's earlier marks all contain the phonetically identical word element 'easy'/'easi', which appears at the beginning of both marks. The letters 'y' and 'i' appearing at the end of 'eas' are pronounced the same in the English language and therefore these elements would be pronounced identically, and the marks are similar."

35. The holder submits:

"The marks at issue are aurally dissimilar when properly assessed as a whole. The marks would only be considered aurally similar in part, if dissected into their individual parts and according to the established case law, this is not the correct way to assess similarity between marks.

Even taking into account any aural similarity between the Holder's mark and part of the Opponent's earlier marks, namely, their prefix "easy", this partial similarity is outweighed by both visual and conceptual differences between the marks at issue."

36. To my mind, there are two ways in which the holder's mark can be pronounced. The first, if the average consumer attempts to identify it as a word, is that it will be pronounced as if it were a misspelling of the dictionary word EASY, in which case it will be pronounced EEE-ZEE. However, I also consider it possible, particularly as the last letter is presented in lower case, that it will be pronounced as an acronym i.e. EEE-AYY-ESS-EYE. If the first pronunciation is correct, then it will overlap aurally to the extent that the first word in all of the earlier marks will be pronounced identically i.e. EEE-ZEE. However, there will be the aural difference created by the second word in each of the earlier marks (JET, GROUP, Value, Land, Energy, .com, BUS and CAR respectively) which have no counterpart in the holder's mark. The marks will, therefore, be aurally similar to a medium degree. If the second pronunciation is correct, then only the first syllable will overlap i.e. EEE. I consider that this will result in only a low degree of aural similarity between the marks.

#### Conceptual Comparison

37. The word EASY in the earlier marks is laudatory. To the extent that the letters EASI are seen as a misspelling of the word EASY, this will be the same for both marks. However, the different suffix used in each earlier mark, which have no counterpart in the holder's mark creates a point of conceptual difference. I consider there to be between a low and medium degree of conceptual similarity between the marks. However, if the holder's mark is viewed as an acronym, it will convey no particular meaning. Consequently, in those circumstances, the marks will be conceptually dissimilar.

#### **Distinctive character of the earlier trade marks**

38. In *Lloyd Schuhfabrik Meyer & Co. GmbH v Klijsen Handel BV*, Case C-342/97 the CJEU stated that:

“22. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, the national court must make an overall assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular



undertaking, and thus to distinguish those goods or services from those of other undertakings (see, to that effect, judgment of 4 May 1999 in Joined Cases C-108/97 and C-109/97 *Windsurfing Chiemsee v Huber and Attenberger* [1999] ECR I-2779, paragraph 49).

23. In making that assessment, account should be taken, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered; the market share held by the mark; how intensive, geographically widespread and long-standing use of the mark has been; the amount invested by the undertaking in promotion of the mark; the proportion of the relevant section of the public which, because of the mark, identifies the goods or services as originating from a particular undertaking; and statements from chambers of commerce and industry or other trade and professional associations (see *Windsurfing Chiemsee*, paragraph 51).”

39. Registered trade marks possess varying degrees of inherent distinctive character, ranging from the very low, because they are descriptive, to low, because they are suggestive or allusive of a characteristic of the goods or services, to those with high inherent distinctive character, such as invented words which have no allusive qualities. The distinctiveness of a mark can be enhanced by virtue of the use that has been made of it.

40. In its written submission in lieu, the holder submits as follows:

“The word “easy” being the common element of the Opponent’s earlier marks is an ordinary English dictionary word, which alludes to the quality of the goods/services covered by the Opponent’s earlier marks. It is thus inherently low in distinctive character. The suffix in each of the Opponent’s earlier marks, is also an ordinary dictionary words [sic] – one that is descriptive with a direct reference to the nature and the characteristics of some of the goods and/or services provided under each earlier mark. There is no evidence that any of the earlier marks have had their distinctiveness enhanced through use in the UK.

Consequently, the Opponent's earlier marks have a low level of inherent distinctive character."

41. I will begin by assessing the inherent distinctive character of the earlier marks. The word EASY is laudatory i.e. the goods or services are simple to use or straightforward. The words JET, GROUP, Value, Land, Energy, .com, BUS and CAR will also be descriptive or allusive of some of the goods and services offered under the marks. The inherent distinctive character of these marks lies in the combination of the words as a whole. I consider the marks to have between a low and medium degree of inherent distinctive character.

42. The opponent has also filed evidence to demonstrate that the distinctive character of the earlier marks has been enhanced through use. As noted above, Mr Pixton has exhibited the witness statement of Sir Stelios Haji-Ioannou dated 4 August 2017, which sets out details of the use made of various marks owned by the opponent (not all of which are relied upon for the purposes of this opposition).<sup>2</sup> I have read the statement in its entirety, but do not propose to summarise it in full. I have also reviewed the witness statement of Mr Christopher Griffin, Chief Executive of the Museum of Brands, dated 4 April 2017.<sup>3</sup> Mr Griffin attests to the fame of the 'easy' brand.

43. Little or no information is given about the use made of the Fifth and Seventh Earlier Marks. I do not consider there to be any evidence to justify a finding of enhanced distinctiveness in relation to these marks. The opponent's evidence in relation to the Fourth Earlier Mark is that "easyLand" was used as part of the opponent's Luton address from 1998. Sir Haji-Ioannou states that this address was used in all correspondence with the airline, and was also reference in the press coverage over a number of years. However, I do not consider this sufficient for a finding of enhanced distinctiveness.

44. The majority of the information provided in the opponent's evidence relates to the First Earlier Mark. Sir Haji-Ioannou notes that the mark was first used by the opponent

---

<sup>2</sup> Exhibit REP1

<sup>3</sup> Exhibit REP3

in the UK in April 1995. Accounts for easyJet confirm revenue of £4,268million in September 2013, £4,527million in September 2014, £4,686million in September 2015 and £4,669million in September 2016.<sup>4</sup> The following passenger figures are provided for the opponent's airline services offered under the mark:

2010/2011	50,320,074
2011/2012	55,436,681
2012/2013	59,354,758
2013/2014	61,475,841
2014/2015	65,349,451
2015/2016	70,082,951
2016/2017	74,921,296

45. Further, the following visitor figures are provided for the easyJet.com website:

Year	Users	Page views
2011	122,774,951	1,290,544,781
2012	181,066,443	1,384,003,741
2013	182,844,400	1,622,460,308
2014	204,695,807	1,832,692,963
2015	208,363,085	1,625,290,017
2016	168,943,682	1,435,611,431
2017 <sup>1</sup>	86,917,538	919,258,176

Sir Haji-loannou notes that between 2011 and 2016, there were 3,797,300,717 page views of the website from the UK alone.

46. I note that various advertising and promotional activities have been undertaken in relation to the First Earlier Mark. For example, the brand was featured in a television program called 'Airline' which was first broadcast in January 1999 on ITV. This series went on for nine series, ending in September 2006. Sir Haji-loannou notes that the series attracted up to 9million viewers per episode. The easyJet website as of

---

<sup>4</sup> Exhibit REP2

November 2017, confirms that the airline flies to 132 airports in 31 countries and operates 802 routes.<sup>5</sup> A number of articles have also been provided which reference the First Earlier Mark such as publications in *The Guardian* (2015), *The Telegraph* (2016), *London Evening Standard* (2016), *The Scotsman* (2017), *Event Magazine* (2017), *The Telegraph* (2017) and *The Independent* (2017). An article dated 2014 confirms that easyJet were the lead sponsors of the Manchester Pride event, which was due to attract more than 100,000 visitors. An article dated 2016 also confirms that “more than a fifth of 16,000 travellers named easyJet as the favourite low-cost European airline”.<sup>6</sup> I also note that easyJet has won awards such as “Europe’s Leading Low-Cost Airline 2013” in the World Travel Awards. It also won this award between 2009 and 2014, as well as winning “Best Short-Haul Airline” in 2014 at the Business Travel Awards. I am, therefore, satisfied that the distinctiveness of the First Earlier Mark has been enhanced to a high degree through use in relation to airline services.

47. Sir Haji-loannou’s evidence regarding the Second Earlier Mark is that it was initially used in 1998 as part of the company name easyGroup (UK) Limited and, later in 2000, as part of the company easyGroup IP Licensing Limited (which later became easyGroup Limited in 2014). The purpose of these businesses is to hold and protect the opponent’s intellectual property. I also note that various references to the Second Earlier Mark have been made in publications prior to the relevant date.<sup>7</sup> However, no turnover or sales figures are provided for services offered under the mark and no advertising expenditure is provided. Taking the evidence as a whole into account, I do not consider that it is sufficient to demonstrate enhanced distinctiveness of the Second Earlier Mark in relation to the services relied upon for the purposes of this opposition.

48. Sir Haji-loannou states that the Third Earlier Mark has been used since November 2000 as an online price comparison service. Sir Haji-loannou states:

“Monthly visits from the launch of easyValue increased to over 1 million within 6 months and by June 2001 finance was over £250,000.”

---

<sup>5</sup> Exhibit REP2

<sup>6</sup> Exhibit REP2

<sup>7</sup> Exhibit REP2

It is not clear to me what is meant by “finance”. Further, 1 million views do not appear to me to represent a particularly high number of users given what must be a significant market for price comparison services. It is also not clear what proportion of these website users would have been from the UK. Sir Haji-loannou states that accounts for easyValue show that turnover to the end of December 2000 was £17,070 and revenue for the year ending December 2001 was £76,983. Revenue for the year ending December 2002 was £22,880 and for the year ending December 2003 was £27,636. Again, these figures do not seem to me to be particularly high given the size of the market. Taking this into account, as well as the fact that no advertising or promotional expenditure has been provided and no information has been provided relating to the last 15 years, I do not consider the evidence sufficient for a finding of enhanced distinctiveness.

49. In relation to the Sixth Earlier Mark, Sir Haji-loannou makes reference to the easy.com website. He explains that this has been operating since 1 March 2000. He states that the website promotes the other ‘EASY’ brands such as easyJet and easyRentacar. By August 2000, Sir Haji-loannou decided to set up a free web-based email system (in the format yourname@easy.com). Sir Haji-loannou notes that the market for this has been reduced due to larger competitors dominating, although the service is still provided to 5,000 people. Sir Haji-loannou notes that easyInternetcafes had easy.com centres in 5 stores, which offered information about the EASY businesses. The following figures have been provided for the easy.com website:

Year	Users	Page Views	Sessions
2012	754,514	3,904,709	1,911,146
2013	676,179	3,327,116	1,729,272
2014	772,055	3,128,506	1,717,423
2015	1,028,415	3,305,865	1,919,335
2016	642,966	3,349,887	1,553,990
2017 <sup>2</sup>	458,919	2,400,436	1,159,901
<b>Total since 2012</b>	<b>4,286,067</b>	<b>19,416,522</b>	<b>9,991,070</b>

Clearly, there are a number of users of the easy.com website. I note that the number of individual users is not extensive given the size of the market. Further, and in any

event, the use shown on the opponent's website does not appear to relate to the goods and services relied upon for the purposes of this opposition or, indeed, that I have found to be similar to the services covered by the application. I do not, therefore, consider that there is sufficient evidence for a finding of enhanced distinctiveness.

50. The evidence provided in relation to the Eighth Earlier Mark is limited. Sir Haji-loannou notes that easyRentacar was launched in April 2000. This business appears to have later become known as EASYCAR although it is not clear at what date the name change occurred. The opponent's evidence confirms turnover figures for the easyRentacar/easyCar brand were £3,344,000 in September 2000, £17,987,000 in September 2001, £28,306,000 in September 2002 and £32,498,000 in September 2003. However, no more recent figures have been provided. Sir Haji-loannou notes that investment in advertising figures have not been retained for this brand, but that on 13 March 2000 alone, £244,869 was spent on advertising in 8 national newspapers. However, as it is not clear which, if any, of these figures relate to EASYCAR (rather than easyRentacar) I am not satisfied that the Eighth Earlier Mark has acquired any enhanced distinctiveness through use.

### **Likelihood of confusion**

51. Confusion can be direct or indirect. Direct confusion involves the average consumer mistaking one mark for the other, while indirect confusion is where the average consumer realises the marks are not the same but puts the similarity that exists between the marks and the goods and services down to the responsible undertakings being the same or related. There is no scientific formula to apply in determining whether there is a likelihood of confusion; rather, it is a global assessment where a number of factors need to be borne in mind. The first is the interdependency principle i.e. a lesser degree of similarity between the respective trade marks may be offset by a greater degree of similarity between the respective goods and services and vice versa. As I mentioned above, it is necessary for me to keep in mind the distinctive character of the earlier marks, the average consumer for the services and the nature of the purchasing process. In doing so, I must be alive to the fact that the average consumer rarely has the opportunity to make direct comparisons between trade marks

and must instead rely upon the imperfect picture of them that he has retained in his mind.

52. I have found the holder's mark to be visually similar to between a low and medium degree to the First, Second, Third, Fourth, Seventh and Eighth Earlier Marks. I have found the holder's mark to be visually similar to a low degree to the Fifth and Sixth Earlier Marks. I have found the marks to be aurally similar to a low or medium degree, depending upon how the holder's mark is pronounced. I have found the marks to be conceptually similar to between a low and medium degree, or conceptually dissimilar, again depending upon how the holder's mark is interpreted. I have found the average consumer to be a member of the general public or a business user, who will pay at least a medium degree of attention when purchasing the services. For some of the services, a higher degree of attention will be paid. I have found the earlier marks to have between a low and medium degree of inherent distinctive character. This has been enhanced to a high degree through use in relation to the First Earlier Mark only in relation to airline services, which I have found to be dissimilar to the holder's services for the reasons set out above.

53. The opponent notes that the average consumer will pay greater attention to the start of the marks. This is, of course, correct as a general rule according to the case law. However, in my view, the differences between the ends of the marks will not be overlooked by the average consumer. For example, I do not consider that the additional word in each of the earlier marks will be overlooked or that the different uses of colour in the Fifth and Sixth Earlier Marks and device in the holder's mark will be forgotten. I consider that these differences will prevent the marks from being mistakenly recalled or misremembered as each other. This is particularly the case given that at least a medium degree of attention will be paid during the purchasing process for the services. I recognise that the identity of some of the services is a factor in the opponent's favour, taking into account the interdependency principle. However, I consider that the differences between the marks will offset the similarity between the services, even where they are identical. Consequently, I do not consider there to be a likelihood of direct confusion.

54. In its written submissions, the opponent states:

“[...] The “easy” prefix is common to many of the Opponent’s businesses, including the well known airline easyJet and hotel easyHotel. [...]”

and:

“We attached at Exhibit REP3 a witness statement from Christopher Griffin, who is the Director of the Museum of Brands in London. In this witness statement, Christopher Griffin attests to the fame of the easy brand and that it covers a diverse range of products and services including easyHotel, easyGym, easyOffice, easyCar, easyCoffee and easyFoodstore. [...]”

55. With regard to the opponent’s family of marks argument, the holder submits:

“There is no evidence that there is an easy “family” of trade marks, and no evidence to establish that the average consumer is aware of such “family”. Furthermore, the Opponent did not specifically claim this in its Notice of Opposition. In any event, even if the Opponent had established that it has a family of “easy” marks present on the market, it is submitted that in light of the differences between the marks, their goods and services, the lack of distinctiveness in the Opponent’s earlier marks for the services at issue, the Holder’s mark would not be taken as a member of that family by the relevant public, for the reasons here exposed.”

56. The holder is correct that if the opponent wanted to rely upon a family of marks argument then it should have pleaded it in its Notice of opposition. In any event, in // *Ponte Finanziaria SpA v OHIM*, Case C-234/06, the CJEU stated:

“62. Whilst it is true that, in the case of opposition to an application for registration of a Community trade mark based on the existence of only one earlier trade mark that is not yet subject to an obligation to use, the assessment of the likelihood of confusion is to be carried by comparing the two marks as they were registered, the same does not apply where the opposition is based on the existence of several trade marks possessing common characteristics



which make it possible for them to be regarded as part of a ‘family’ or ‘series’ of marks.

63. The risk that the public might believe that the goods or services in question come from the same undertaking or, as the case may be, from economically-linked undertakings, constitutes a likelihood of confusion within the meaning of Article 8(1)(b) of Regulation No 40/94 (see *Alcon v OHIM*, paragraph 55, and, to that effect, *Canon*, paragraph 29). Where there is a ‘family’ or ‘series’ of trade marks, the likelihood of confusion results more specifically from the possibility that the consumer may be mistaken as to the provenance or origin of goods or services covered by the trade mark applied for or considers erroneously that that trade mark is part of that family or series of marks.

64. As the Advocate General stated at paragraph 101 of her Opinion, no consumer can be expected, in the absence of use of a sufficient number of trade marks capable of constituting a family or a series, to detect a common element in such a family or series and/or to associate with that family or series another trade mark containing the same common element. Accordingly, in order for there to be a likelihood that the public may be mistaken as to whether the trade mark applied for belongs to a ‘family’ or ‘series’, the earlier trade marks which are part of that ‘family’ or ‘series’ must be present on the market.”

57. The opponent has made reference to marks such as easyHotel, easyOffice and easyGym. However, these marks have not been relied upon for the purposes of this opposition and are, therefore, irrelevant. In respect of those marks that are relied upon, for this line of argument to be successful, the opponent will need to demonstrate that the marks were used on the market at the relevant date. The Second Earlier Mark has clearly been used by the opponent since around 1998. However, the evidence of use in more recent years is limited to references in a handful of articles. I do not consider this sufficient to consider the mark to be actually “on the market” at the relevant date. Likewise, I do not consider that the opponent has shown use of the Third, Fourth, Fifth and Seventh Earlier Marks. Whilst figures are provided for the years 2000 to 2003 for the Eighth Earlier Mark, there is no more recent information than that. I do not,

therefore, consider it possible to conclude that that mark was on the market at the relevant date.

58. The opponent has clearly demonstrated that the First Earlier Mark was on the market at the relevant date. I also consider that there is at least some evidence of the Sixth Earlier Mark being used on the market place at the relevant date. It has been in use since 2000, and viewing figures are provided for as recently as 2017. However, I do not consider the presence of these two marks on the market place to be sufficient to amount to a 'family of marks'.

59. In any event, the opponent's earlier marks all consist of the prefix EASY- plus a descriptive suffix. It is in this combination of elements that the distinctive character of the earlier marks lies. I do not consider that the opponent has established that the average consumer would expect any mark with an EASY- prefix and a descriptive suffix to be connected to the opponent. I certainly do not consider that the opponent has established that any use of the word EASY on its own (or, indeed, a misspelling of that word) would be connected to the opponent. Even if the average consumer does view the holder's mark as a misspelling of the word EASY, the holder's mark does not follow the pattern of the earlier marks in that it is 1) a misspelling and 2) not accompanied by a second descriptive word. I do not, therefore, consider there to be a likelihood of indirect confusion on the basis of the opponent's 'family of marks' argument. Further, having recognised the differences between the marks, I see no reason why the average consumer would conclude that they originate from the same or economically linked undertakings. I do not consider there to be a likelihood of indirect confusion.

60. The opposition based upon section 5(2)(b) fails in its entirety.

### **Section 5(3)**

61. Section 5(3) of the Act states:

““A trade mark which -

(a) is identical with or similar to an earlier trade mark, 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 European Union trade mark or international trade mark (EC), in the European Union) and the use of the later mark without due cause would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark.”

62. The relevant case law can be found in the following judgments of the CJEU: Case C-375/97, *General Motors*, Case 252/07, *Intel*, Case C-408/01, *Addidas-Salomon*, Case C-487/07, *L’Oreal v Bellure* and Case C-323/09, *Marks and Spencer v Interflora*. The law appears to be as follows:

a) The reputation of a trade mark must be established in relation to the relevant section of the public as regards the goods or services for which the mark is registered; *General Motors*, paragraph 24.

(b) The trade mark for which protection is sought must be known by a significant part of that relevant public; *General Motors*, paragraph 26.

(c) It is necessary for the public when confronted with the later mark to make a link with the earlier reputed mark, which is the case where the public calls the earlier mark to mind; *Addidas Saloman*, paragraph 29 and *Intel*, paragraph 63.

(d) Whether such a link exists must be assessed globally taking account of all relevant factors, including the degree of similarity between the respective marks and between the goods/services, the extent of the overlap between the relevant consumers for those goods/services, and the strength of the earlier mark’s reputation and distinctiveness; *Intel*, paragraph 42

(e) Where a link is established, the owner of the earlier mark must also establish the existence of one or more of the types of injury set out in the section, or there is a serious likelihood that such an injury will occur in the future; *Intel*, paragraph

68; whether this is the case must also be assessed globally, taking account of all relevant factors; *Intel, paragraph 79*.

(f) Detriment to the distinctive character of the earlier mark occurs when the mark's ability to identify the goods/services for which it is registered is weakened as a result of the use of the later mark, and requires evidence of a change in the economic behaviour of the average consumer of the goods/services for which the earlier mark is registered, or a serious risk that this will happen in future; *Intel, paragraphs 76 and 77*.

(g) The more unique the earlier mark appears, the greater the likelihood that the use of a later identical or similar mark will be detrimental to its distinctive character; *Intel, paragraph 74*.

(h) Detriment to the reputation of the earlier mark is caused when goods or services for which the later mark is used may be perceived by the public in such a way that the power of attraction of the earlier mark is reduced, and occurs particularly where the goods or services offered under the later mark have a characteristic or quality which is liable to have a negative impact of the earlier mark; *L'Oreal v Bellure NV, paragraph 40*.

(i) The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an unfair advantage where it seeks to ride on the coat-tails of the senior mark in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the proprietor of the mark in order to create and maintain the mark's image. This covers, in particular, cases where, by reason of a transfer of the image of the mark or of the characteristics which it projects to the goods identified by the identical or similar sign, there is clear exploitation on the coat-tails of the mark with a reputation (*Marks and Spencer v Interflora, paragraph 74 and the court's answer to question 1 in L'Oreal v Bellure*).

63. The opponent has provided evidence that the revenue for airline services under the First Earlier Mark amounted to between £4,268million in 2013 and £4,686million in 2015. Clearly, these figures represent a significant market share. Further, the evidence shows that millions of passengers have used the opponent's airline services under the First Earlier Mark over the course of a number of years. Similarly, millions of users visit the easyJet website each year and a significant proportion of these figures relate to the UK market. The opponent has engaged in various promotional and marketing activities in relation to the First Earlier Mark, including a television programme which attracted millions of viewers. The opponent has also been referenced in a number of national publications and has won a number of awards for its airline services. Taking all of this into account, I am satisfied that the opponent has demonstrated a strong reputation in relation to the First Earlier Mark for airline services. I do not consider that the evidence is sufficient to justify a finding that the opponent had a reputation in the Second Earlier Mark at the relevant date.

## **Link**

64. As I noted above, my assessment of whether the public will make the required mental 'link' between the marks must take account of all relevant factors. The factors identified in *Intel* are:

### The degree of similarity between the conflicting marks

I have found the marks to be visually similar to between a low and medium degree. I have found the marks to be aurally similar to a low or medium degree, depending upon how the holder's mark is pronounced. I have found the marks to be conceptually similar to between a low and medium degree, or conceptually dissimilar, again depending upon how the holder's mark is interpreted.

### The nature of the goods or services for which the conflicting marks are registered, or proposed to be registered, including the degree of closeness or dissimilarity between those goods or services, and the relevant section of the public

For the reasons set out above, I consider the services to be dissimilar.

The strength of the earlier mark's reputation

The First Earlier Mark has a strong reputation for airline services.

The degree of the earlier mark's distinctive character, whether inherent or acquired through use

The word 'easy' is laudatory. The word itself is therefore inherently low in distinctive character. The word JET is also allusive of airline services. As noted above, the inherent distinctive character of the mark lies in the combination of the words (EASYJET). I consider the earlier mark to have between a low and medium degree of inherent distinctive character.

I have found that the distinctiveness of the First Earlier Mark has been enhanced to a high degree through use. However, as noted above, whilst the mark overall has become highly distinctive, the common element EASY is descriptive and has not been shown to be highly distinctive on its own.

Whether there is a likelihood of confusion

I have found there to be no likelihood of confusion.

65. The opponent submits as follows:

"[...] It can be seen that the Opponent enjoys a significant reputation in its mark easyJet in the UK, and in its house mark easyGroup. It is also renowned as the operator of businesses including easyHotel, easyOffice, easyProperty, easyCar, easyVan and easyBus. The easy family of brands means that easy- as a prefix written in lower case, when conjoined to a non-distinctive or weakly distinctive word element so as to form a neologism, is synonymous with the Opponent."

66. In my view, the differences between the marks, combined with the differences between the services in the holder’s specification and the services for which the opponent has proved a reputation make it unlikely that consumers will make any link between the marks in use. Whilst the opponent claims that the word “easy” combined with a non-distinctive or weakly distinctive word will be associated with the opponent, that pattern does not appear in the holder’s mark. Firstly, the word “easy” does not appear in the holder’s mark. Rather, it is the letters “EASi”. This is may be viewed as an acronym or a misspelling of the word “easy”. In the latter case, I accept that both “EASi” and “easy” would sound the same when encountered aurally. However, it is not combined with a second non-distinctive or descriptive word and so does not fall within the pattern identified by the opponent itself. As noted above, I do not consider that the opponent has demonstrated that it has a ‘family of marks’. Taking all of this into account, I do not consider that a link would be made in the mind of the relevant public. If a link is made, then it will be fleeting.

67. Even if I am wrong in my finding that the services are dissimilar, they would be similar to only a low degree, and my finding would be the same.

68. The opposition based upon section 5(3) fails in its entirety.

## **CONCLUSION**

69. The oppositions based upon sections 5(2)(b) and 5(3) are unsuccessful and the application may proceed to registration.

## **COSTS**

70. The holder has been successful and is entitled to a contribution towards its costs, based upon the scale published in Tribunal Practice Notice 2/2016. In the circumstances, I award the holder the sum of **£1,400** as a contribution towards the costs of the proceedings. The sum is calculated as follows:

Preparing a counterstatement and considering	£300
--	------

the opponent's statement

Preparing evidence and considering the opponent's evidence	£800
---	------

Submissions	£300
-------------	------

<b>Total</b>	<b>£1,400</b>
--------------	---------------

71. I therefore order easyGroup Limited to pay Aerotek, Inc. the sum of **£1,400**. This sum should be paid within 21 days of the expiry of the appeal period or, if there is an appeal, within 21 days of the conclusion of the appeal proceedings.

**Dated this 25<sup>th</sup> day of September 2020**

**S WILSON**

**For the Registrar**



## ANNEX

EASYJET (EUTM no. 10584001)

First Earlier Mark

### Class 39

Transport; packaging and storage of goods; travel arrangement; travel information; provision of car parking facilities; transportation of goods, passengers and travelers by air, land, sea and rail; airline and shipping services; airport check-in services; arranging of transportation of goods, passengers and travelers by land and sea; airline services; baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft, vehicles and boats; chauffeur services; taxi services; bus services; coach services; rail services; airport transfer services; airport parking services; aircraft parking services; escorting of travelers; travel agency services; tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, travel information and travel booking services provided on-line from a computer database or the Internet.

EASYGROUP (EUTM no. 10583111)

Second Earlier Mark

### Class 39

Transportation of goods, passengers and travellers by air; airline and shipping services; airport check-in services; arranging of transportation of goods, passengers and travellers by land and sea; airline services; bus transport services, car transport services, coach services, baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft, vehicles and boats; aircraft parking services; aircraft fuelling services, travel reservation and travel booking services provided by means of the world wide web, information services concerning travel, including information services enabling customers to compare prices of different companies; 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.

#### Class 42

Meteorological information services; consultancy, development, advice, analysis, design, evaluation and programming services relating to computer software, firmware, hardware and information technology; design, drawing and commissioned writing, all for the compilation of web pages on the Internet; hosting, creating and maintaining websites for others; consultancy and advice relating to the evaluation, choosing and implementation of computer software, firmware, hardware, information technology and of data-processing systems; rental of computer software, firmware and hardware; provision of information relating to technical matters and information technology; scientific and technological services and research and design relating thereto, industrial analysis and research services; including but not limited to, all the aforesaid services provided via telecommunications networks, by online delivery and by way of the Internet and the world wide web; provision of access to computers.

easyValue (EUTM no. 16140782)

Third Earlier Mark

#### Class 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; arranging, operating and providing facilities for cruises, tours and excursions; arranging, operating and providing transport facilities for holidays; chartering of aircraft; rental and hire of vehicles, boats and aircraft; 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.

easyLand (EUTM no. 16079675)

#### Fourth Earlier Mark

##### Class 39

Transportation of goods, passengers and travellers by air, airline and shipping services; airport check-in services; arranging of transportation of goods, passengers and travellers by land and sea; airline services; bus transport services, car transport services, coach services, baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours and excursions; arranging, operating and providing transport facilities for holidays; chartering of aircraft; rental and hire of aircraft, vehicles and boats; aircraft parking services; travel reservation and travel booking services provided by means of the world wide web, information services concerning travel, including information services enabling customers to compare prices of different companies; 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.



(EUTM no. 15742224)

#### Fifth Earlier Mark

##### Class 9

Computer programs for use in or in connection with provision and distribution of water; safety equipment; counters for water; equipment for central control and switching of consumer units for water; electric display apparatus; telecommunications apparatus and instruments; nautical, photographic, cinematographic, optical, measuring and photocopying apparatus and instruments; calculators; computers; computer hardware; fire extinguishing apparatus; fire alarms; fire blankets; smoke detectors; luminous beacons; life-saving apparatus and equipment; magnetic encoders; magnetic encoded cards and cards bearing machine readable information; identity cards; bank cards; credit cards; cheque cards; cash cards; cards bearing magnetic data media; debit cards; smart cards; tyre gauges; gas testing instruments; micro processors; fire extinguishing apparatus; clothing for protection against accident or injury; carbon

monoxide detectors; lighting controls and ballasts; parts and fittings for the aforesaid goods.

### Class 39

Storage, distribution and supply of water; distribution and supply of effluent, waste water, sewage, sludge, industrial effluents and waste; packaging of goods; sewage collection, removal and storage; waste collection, removal and storage; portering; chauffeur and taxi services; travel agency services; arranging and booking of holidays, travel, tours, cruises and of visits, tourist office services; wrapping of goods; rental and parking of vehicles; packaging of goods; travel arrangement; travel information; provision of car parking facilities; transportation of goods by air; transportation of passengers and travelers by air, land, sea and rail; airline services; airport check-in services; arranging of transportation of passengers and travelers by land and sea; airline services; baggage handling services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft, vehicles and boats; chauffeur services; taxi services; bus services; coach transport services; rail services; airport transfer services; airport parking services; aircraft parking services; escorting of travelers; travel agency services; tourist office services; advisory and information services relating to the aforesaid services; travel information and travel booking services provided on-line from a computer database or the Internet.



(EUTM no. 14920383)

Sixth Earlier Mark

### Class 39

Transportation of goods, passengers and travellers by air; airline and shipping services; airport check-in services; arranging of transportation of goods, passengers and travellers by land and sea; airline services; bus transport services, car transport services, coach services, baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft, vehicles and boats; storage

services, packaging services; rental of storage containers; aircraft parking services; travel reservation and travel booking services provided by means of the world wide web, information services concerning travel, including information services enabling customers to compare prices of different companies; travel agency services; provision of tourist travel information, tourist guide services, arranging excursions for tourists, booking of travel through tourist offices; 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.

EASYBUS (EUTM no. 10735561)

Seventh Earlier Mark

Class 39

Transport; packaging and storage of goods; travel arrangement; travel information; provision of car parking facilities; transportation of goods, passengers and travelers by air, land, sea and rail; airline and shipping services; airport check-in services; arranging of transportation of goods, passengers and travelers by land and sea; airline services; baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft, vehicles and boats; chauffeur services; taxi services; bus services; coach transport services; rail services; airport transfer services; airport parking services; aircraft parking services; escorting of travelers; travel agency services; tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, travel information and travel booking services provided on-line from a computer database or the Internet.

EASYCAR (EUTM no. 10735553)

Eighth Earlier Mark

Class 39

Transport; packaging and storage of goods; travel arrangement; travel information; provision of car parking facilities; transportation of goods, passengers and travelers by air, land, sea and rail; airline and shipping services; airport check-in services; arranging of transportation of goods, passengers and travelers by land and sea; airline

services; baggage handling services; cargo handling and freight services; arranging, operating and providing facilities for cruises, tours, excursions and vacations; chartering of aircraft; rental and hire of aircraft, vehicles and boats; chauffeur services; taxi services; bus services; coach transport services; rail services; airport transfer services; airport parking services; aircraft parking services; escorting of travelers; travel agency services; tourist office services; advisory and information services relating to the aforesaid services; information services relating to transportation services, travel information and travel booking services provided on-line from a computer database or the Internet.