

O/0484/26

TRADE MARKS ACT 1994

IN THE MATTER OF UK REGISTRATION NO. UK00003074361

IN THE NAME OF

EASYGO ELECTRIC BIKES LTD

IN RESPECT OF THE FOLLOWING TRADE MARK:



IN CLASSES 12, 35 & 39

AND

AN APPLICATION FOR THE REVOCATION THEREOF

UNDER NUMBER CA000508103

BY

KILBURN & STRODE LLP

BACKGROUND AND PLEADINGS

1. The trade mark shown on the cover page of this decision (“the Easygo mark”) stands in the name of Easygo Electric Bikes Ltd (“the Proprietor”). The details of the mark are as follows:

UK Registration no. UK00003074361



Filing date: 26 September 2014

Registration date: 23 January 2015

Registered for the following goods and services:

Class 12: Inner tubes for cycles; Bag carriers for cycles; Bells for cycles; Brake levers for cycles; Carriers for cycles for use on vehicles; Chains for driving cycles; Cog wheels for cycles; Covers for foot pedals on cycles; Covers for handgrips of cycles; Direction indicator signals for cycles; Direction indicators for cycles; Frames for cycles; rips for handlebars of cycles; Handlebars for bicycles or cycles; Kickstands for cycles; Luggage carriers for cycles; Pedal bicycles; Pumps for cycles; Saddle covers for cycles; Saddles for cycles; Stands for cycles (parts of); Tubeless tyres for cycles; Warning systems (audible-) for cycles; Baskets adapted for cycles; Panniers adapted for cycles; Inner tubes for bicycles cycles; Frames for bicycles, cycles; Saddles for bicycles or cycle ; Bells for bicycles, cycles; Warning systems (Audible -) for cycles; Dress guards for bicycles, cycles; Spokes for bicycles, cycles; Wheels for bicycles, cycles; Pedals for cycle ; Pumps for bicycles, cycles; Rims for wheels of bicycles, cycles; Cranks for cycles; Brakes for bicycles, cycles; Tires for bicycles, cycles; Gears for cycles; Handle bars for bicycles cycles; Cycles; Stands for bicycles, cycles (parts of bicycles, cycles); Chains for bicycles, cycles; Inner tubes for cycles; Bag carriers for cycles; Bells for cycles; Brake levers for cycles; Carriers for cycles for use on vehicles; Cog wheels for cycles; Covers for foot pedals on

cycles; Covers for handgrips of cycles; Direction indicator signals for cycles; Direction indicators for cycles; Frames for cycles; Grips for handlebars of cycles; Handlebars for bicycles, cycles; Kickstands for cycles; Luggage carriers for cycles; Pedal bicycles; Pedal cycles; Pumps for cycles; Saddle covers for cycles; Baskets adapted for cycles; Panniers adapted for cycles; Inner tubes for bicycles, cycles; Frames for bicycles, cycles; Saddles for bicycles or cycles; Bells for bicycles, cycles; Pedals for cycles; Pumps for bicycles, cycles; Rims for wheels of bicycles, cycles; Cranks for cycles; Brakes for bicycles, cycles; Gears for cycles; Handle bars for bicycles, cycles; electrically assisted pedal cycles, electrically assisted bicycles.

Class 35: Retail services connected with the sale of Pedal Cycles, frames for bicycles, cycles, electrically assisted pedal cycles, electrically assisted bicycles, Cranks for Cycles, Rental of Cycles; Handlebars for Cycles, electrically assisted pedal cycles, electrically assisted bicycles; Sales promotion for third parties.

Class 39: Rental of cycles; rental of electrically assisted pedal cycles, rental of electrically assisted bicycles.

2. On 22 November 2024, Kilburn & Strode LLP (“the Applicant”) filed an application seeking to revoke the contested mark on the grounds of non-use under sections 46(1)(a) and 46(1)(b) of the Trade Marks Act 1994 (“the Act”). The Applicant claims non-use in respect of all the Proprietor’s goods and services. The periods in respect of which non-use is claimed are 24 January 2015 to 23 January 2020 under Section 46(1)(a), and 22 November 2019 to 21 November 2024 under Section 46(1)(b). The effective date of revocation if successful would be 24 January 2024 under Section 46(1)(a), and 22 November 2024 under Section 46(1)(b).
3. The Proprietor filed a counterstatement defending its registration in respect of all its goods and services.

4. Only the Proprietor filed evidence in these proceedings. Neither party requested a hearing nor filed written submissions in lieu of the same. This decision is taken following careful consideration of the papers on file.
5. Both parties are self-represented.¹
6. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 requires tribunals to apply EU-derived national law in accordance with EU law as it stood at the end of the transition period. The provisions of the Trade Marks Act relied on in these proceedings are derived from an EU Directive. This is why these proceedings continue to make reference to the trade mark case-law of EU courts.
7. As noted at paragraph 2, under section 46(1)(a), the relevant period for assessing whether there has been genuine use is between 24 January 2015 to 23 January 2020 (“the first relevant period”), while the relevant period under section 46(1)(b) is 22 November 2019 to 21 November 2024 (“the second relevant period”). A finding of genuine use during the second relevant period will be sufficient to avoid revocation of the mark under section 46(1)(b), and, by virtue of section 46(3), section 46(1)(a). Provided that such use is deemed to be genuine use, this will be the case even if the evidence in relation to the first relevant period is deemed insufficient. I shall return to this point at the end of my decision, if it is necessary to do so.

EVIDENCE

8. As mentioned above, only the Proprietor filed evidence in these proceedings. This was in the form of the witness statement of Gordon David Cullen, the founder, owner and sole director of the Proprietor, dated 15 April 2025. The witness statement was accompanied by ten exhibits (Exhibits EG 001 to EG 009 and EG 003A).

¹ The Proprietor being a litigant in person; the Applicant being a firm of European and UK Patent and Trade Mark Attorneys.

DECISION

9. Section 46 of the Act is relevant to the revocation proceedings which states:

“46. - (1) The registration of a trade mark may be revoked on any of the following grounds-

(a) that within the period of five years following the date of completion of the registration procedure it has not been put to genuine use in the United Kingdom, by the proprietor or with his consent, in relation to the goods or services for which it is registered, and there are no proper reasons for non-use;

(b) that such use has been suspended for an uninterrupted period of five years, and there are no proper reasons for non-use;

(c) [...]

(d) [...]

(2) For the purpose of subsection (1) use of a trade mark includes use in a form (the “variant form”) differing in elements which do not alter the distinctive character of the mark in the form in which it was registered (regardless of whether or not the trade mark in the variant form is also registered in the name of the proprietor), and use in the United Kingdom includes affixing the trade mark to goods or to the packaging of goods in the United Kingdom solely for export purposes.

(3) The registration of a trade mark shall not be revoked on the ground mentioned in subsection (1)(a) or (b) if such use as in referred to in that paragraph is commenced or resumed after the expiry of the five year period and before the application for revocation is made:

Provided that, any such commencement or resumption of use after the expiry of the five year period but within the period of three months before the making of the application shall be disregarded unless preparations for the commencement or resumption began before the proprietor became aware that the application might be made.

(4) [...]

(5) Where grounds for revocation exist in respect of only some of the goods or services for which the trade mark is registered, revocation shall relate to those goods or services only.

(6) Where the registration of a trade mark is revoked to any extent, the rights of the proprietor shall be deemed to have ceased to that extent as from-

(a) the date of the application for revocation, or

(b) if the registrar or court is satisfied that the grounds for revocation existing at an earlier date, that date”.

10. Section 100 of the Act states that:

“If in any civil proceedings under this Act a question arises as to the use to which a registered trade mark has been put, it is for the proprietor to show what use has been made of it”.

11. In *easyGroup Ltd v Nuclei Ltd & Ors* [2023] EWCA Civ 1247, Arnold LJ summarised the law relating to genuine use as follows:

“105. The principles applicable to determining whether there has been genuine use of a trade mark have been considered by the CJEU in a considerable number of cases, the principal decisions being Case C-40/01 *Ansul BV v Ajax Brandbeveiliging BV* [2003] ECR I-2439, Case C-259/02 *La Mer Technology Inc v Laboratories Goemar SA* [2004] ECR I-1159, Case C-416/04 *P Sunrider*

Corp v Office for Harmonisation in the Internal Market (Trade Marks and Designs) [2006] ECR I-4237, Case C-442/07 *Verein Radetsky-Order v Bunderversvereinigung Kamaradschaft 'Feldmarschall Radetsky'* [2008] ECR I-9223, Case C-495/07 *Silberquelle GmbH v Maselli-Strickmode GmbH* [2009] ECR I-2759, Case C-149/11 *Leno Merken BV v Hagelkruis Beheer BV* [EU:C:2012:816], Case C-609/11 *Centrotherm Systemtechnik GmbH v Centrotherm Clean Solutions GmbH & Co KG* [EU:C:2013:592], Case C-141/13 *P Reber Holding & Co KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs)* [EU:C:2014:2089], Case C-689/15 *W.F. Gözze Frottierweberei GmbH v Verein Bremer Baumwollbörse* [EU:C:2017:434] and Joined Cases C-720/18 and C-721/18 *Ferrari SpA v DU* [EU:C:2020:854].

106. Ignoring issues which do not arise in the present case, such as use in relation to spare parts or second-hand goods and use in relation to a sub-category of goods, the principles may be summarised as follows:

(1) Genuine use means actual use of the trade mark by the proprietor or by a third party with authority to use the mark: *Ansul* at [35] and [37].

(2) The use must be more than merely token, that is to say, serving solely to preserve the rights conferred by the registration of the mark: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Leno* at [29]; *Centrotherm* at [71]; *Reber* at [29].

(3) The use must be consistent with the essential function of a trade mark, which is to guarantee the identity of the origin of the goods or services to the consumer or end user by enabling him to distinguish the goods or services from others which have another origin: *Ansul* at [36]; *Sunrider* at [70]; *Verein* at [13]; *Silberquelle* at [17]; *Centrotherm* at [71]; *Leno* at [29]; *Gözze* at [37], [40]; *Ferrari* at [32].

(4) Use of the mark must relate to goods or services which are already marketed or which are about to be marketed and for which preparations to secure customers are under way, particularly in the form of advertising

campaigns: *Ansul* at [37]. Internal use by the proprietor does not suffice: *Ansul* at [37]; *Verein* at [14]. Nor does the distribution of promotional items as a reward for the purchase of other goods and to encourage the sale of the latter: *Silberquelle* at [20]-[21]. But use by a non-profit making association can constitute genuine use: *Verein* at [16]-[23].

(5) The use must be by way of real commercial exploitation of the mark on the market for the relevant goods or services, that is to say, use in accordance with the commercial *raison d'être* of the mark, which is to create or preserve an outlet for the goods or services that bear the mark: *Ansul* at [37]-[38]; *Verein* at [14]; *Silberquelle* at [18]; *Centrotherm* at [71].

(6) All the relevant facts and circumstances must be taken into account in determining whether there is real commercial exploitation of the mark, including: (a) whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services in question; (b) the nature of the goods or services; (c) the characteristics of the market concerned; (d) the scale and frequency of use of the mark; (e) whether the mark is used for the purpose of marketing all the goods and services covered by the mark or just some of them; (f) the evidence that the proprietor is able to provide; and (g) the territorial extent of the use: *Ansul* at [38] and [39]; *La Mer* at [22]-[23]; *Sunrider* at [70]-[71], [76]; *Centrotherm* at [72]-[76]; *Reber* at [29], [32]-[34]; *Leno* at [29]-[30], [56]; *Ferrari* at [33].

(7) Use of the mark need not always be quantitatively significant for it to be deemed genuine. Even minimal use may qualify as genuine use if it is deemed to be justified in the economic sector concerned for the purpose of creating or preserving market share for the relevant goods or services. For example, use of the mark by a single client which imports the relevant goods can be sufficient to demonstrate that such use is genuine, if it appears that the import operation has a genuine commercial justification for the proprietor. Thus there is no *de minimis* rule: *Ansul* at [39]; *La Mer* at [21], [24] and [25]; *Sunrider* at [72]; *Leno* at [55].

(8) It is not the case that every proven commercial use of the mark may automatically be deemed to constitute genuine use: *Reber* at [32].

107. The trade mark proprietor bears the burden of proving genuine use of its trade mark: see section 100 of the 1994 Act and *Ferrari* at [73]-[83]. The General Court of the European Union has repeatedly held that genuine use of a trade mark cannot be proved by means of probabilities or suppositions, but must be demonstrated by solid and objective evidence of effective and sufficient use of the trade mark on the market concerned: see e.g. Case T-78/19 *Lidl Stiftung & Co KG v European Union Intellectual Property Office* [EU:C:2020:166] at [25]. It has also repeatedly held that the smaller the commercial volume of the exploitation of the mark, the more necessary it is for the proprietor to produce additional evidence to dispel any doubts as to the genuineness of its use: see e.g. *Lidl* at [33].

12. In *Awareness Ltd v Plymouth City Council* [2013] RPC 24 Mr Daniel Alexander KC sitting as the Appointed Person said:

19. For the tribunal to determine in relation to what goods or services there has been genuine use of a mark during the relevant period, it should be provided with clear, precise, detailed and well-supported evidence as to the nature of that use during the period in question from a person properly qualified to know.

...

22. ... it is not strictly necessary to exhibit any particular kind of documentation but if it is likely that such material would exist and little or none is provided, a tribunal will be justified in rejecting the evidence as insufficiently solid. That is all the more so since the nature and extent of use is likely to be particularly well known to the proprietor itself. A tribunal is entitled to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is

inconclusive. By the time the tribunal ... comes to take its final decision, the evidence must be sufficiently solid and specific to enable the evaluation of the scope of protection to which the proprietor is legitimately entitled to be properly and fairly undertaken, having regard to the interests of the proprietor, the opponent and, it should be said the public.”

13. In *Dosenbach-Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd*, Case BL 0/404/13, Mr Geoffrey Hobbs QC (as he then was) as the Appointed Person stated that:

“21. The assessment of a witness statement for probative value necessarily focuses upon its sufficiency for the purpose of satisfying the decision taker with regard to whatever it is that falls to be determined, on the balance of probabilities, in the particular context of the case at hand. As Mann J. observed in *Matsushita Electric Industrial Co. v. Comptroller- General of Patents* [2008] EWHC 2071 (Pat); [2008] R.P.C. 35:

‘[24] As I have said, the act of being satisfied is a matter of judgment. Forming a judgment requires the weighing of evidence and other factors. The evidence required in any particular case where satisfaction is required depends on the nature of the inquiry and the nature and purpose of the decision which is to be made. For example, where a tribunal has to be satisfied as to the age of a person, it may sometimes be sufficient for that person to assert in a form or otherwise what his or her age is, or what their date of birth is; in others, more formal proof in the form of, for example, a birth certificate will be required. It all depends who is asking the question, why they are asking the question, and what is going to be done with the answer when it is given. There can be no universal rule as to what level of evidence has to be provided in order to satisfy a decision-making body about that of which that body has to be satisfied.’

22. When it comes to proof of use for the purpose of determining the extent (if any) to which the protection conferred by registration of a trade mark can

legitimately be maintained, the decision taker must form a view as to what the evidence does and just as importantly what it does not ‘*show*’ (per Section 100 of the Act) with regard to the actuality of use in relation to goods or services covered by the registration. The evidence in question can properly be assessed for sufficiency (or the lack of it) by reference to the specificity (or lack of it) with which it addresses the actuality of use.”

14. What I take from this case law is that there is no requirement to produce any specific form of evidence, but that I must consider what the evidence as a whole shows me and whether on this basis I can reasonably be satisfied on the balance of probabilities that there has been genuine use of the mark.
15. Proven use of a mark which fails to establish that “the commercial exploitation of the mark is real” because the use would not be “viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods and services protected by the mark” is not, therefore, genuine use.

Evidence of use

16. In its notice of defence, the Proprietor has claimed that use has been made of all of the goods and services for which the mark is registered. I must consider whether, or the extent to which, the evidence shows genuine use of the mark in relation to those goods and services.
17. From the witness statement of Gordon David Cullen, I note that Easygo Electric Bikes Ltd was incorporated on 08 May 2013. Mr Cullen explains that the company assembles, promotes, sells, supports and hires a wide range of electrically assisted pedal cycles.²
18. The Proprietor provides the following turnover figures for the years 2013/14 – 2023/24:³

² Witness statement of Gordon David Cullen, paragraph 2.

³ Witness statement of Gordon David Cullen, paragraph 12.

12) Turnover

- 2013/2014 - £23,923
- 2014/2015 - £49,894
- 2015/2016 - £127,382
- 2016/2017 - £175,768
- 2017/2018 - £197,171
- 2018/2019 - £179,529
- 2019/2020 - £150,058
- 2020/2021 - £176,550
- 2021/2022 - £123,332
- 2022/2023 - £60,474
- 2023/2024 - £30,474

19. The figures show that the Proprietor had an annual turnover of between £127,382 and £197,171 during the first relevant period, and between £30,474 and £176,550 during the second relevant period. However, as the turnover figures have not been broken down it is not clear how much of the turnover relates to the specific goods and/or services offered by the Proprietor. Mr Cullen states that trading figures are available via Companies House, however, as copies of these are not included in the evidence as filed, I am unable to consider them.

20. Exhibit **EG 001** provides press articles relating to the launch of the Proprietor's company. Exhibit **EG 001-1** consists of a full-page advertisement in the 'Daily Record' newspaper, clearly displaying the Easygo mark in relation to electric bikes, as shown below:



21. No information has been provided regarding the circulation or geographical reach of the publication. The advertisement states that Easygo Bikes Ltd is "a brand new company with a major focus on the tried and tested range of Batribike folding and

full size electric bikes”. The date of the above press article is partially cut off due to the cropping of the page, meaning I am unable to discern with any certainty whether this document is dated within the relevant periods.

22. Although not specifically dated, from the content of exhibit **EG 001-2** the document featuring the Proprietor’s mark in relation to electric bikes, appears to date from 2013, which is outside of the relevant period.
23. Exhibit **EG 001-3** is undated but provides an article titled ‘Easygo Electric Bikes Linlithgow’, which details that the Proprietor “is a specialist retailer for the hire, sales and service of a wide range of high quality electric bikes”. Mr Cullen identifies the document as being from a ‘community magazine’, however, no specific information is provided regarding the publication or its circulation.
24. Exhibit **EG 001-4** contains an article from the ‘Edinburgh News’ titled ‘Linlithgow MSP highlights e-bikes benefits at town business’, dated September 2022 regarding a visit from MSP (Member of the Scottish Parliament) Fiona Hyslop to Easygo Bikes’ premises. The article explains how e-bikes and e-bike technology can support different cyclists as well as “offering a healthier alternative to travelling and promoting active travel across West Lothian”. The article only refers to one Easygo shop, which is located in the West Lothian area, and is open by appointment only. The article also contains a photo showing the Easygo mark on display at the shop premises, as shown below:



Fiona Hyslop MSP with Easy Go Bikes managing director Gordon Cullen.

25. In his witness statement Mr Cullen provides details, at a very general level, of the Proprietor's marketing spend between 2013 and 2017, however, I note that much of this period predates the first relevant period. The figures provided state that £27,000 was spent on printed and online advertising over a four-year period, of which two years fall within the first relevant period. It is unclear from the evidence whether this figure relates to the marketing of some or all of the Proprietor's goods and/or services. In addition, no information has been provided regarding the reach or nature of the said advertising.
26. **Exhibit EG 002** provides examples of advertisements which the Proprietor states frequently appeared in newspapers and trade directories. I note that no details have been provided regarding the frequency of which these advertisements were published, nor the reach or circulation of the publications.
27. Exhibit **EG 002-1** contains an advertisement published in 'Linlithgow Community Magazine' for the hire, sale and service of bikes. The document is not specifically dated, however, from the content of the exhibit I am satisfied that it was published in 2015. This document clearly shows the Easygo mark, as the following shows:



28. Exhibit **EG 002-2** provides an undated article published in 'Linlithgow Community Magazine', clearly displaying the EasyGo mark. The article, written by Alistair Heather, discusses the benefits of new electric bike technology and explains "Linlithgow's Easygo Electric Bikes is at the Scottish vanguard of this new technology". The article contains images of a man with an electric bike, appearing to bear the name 'Batribike' on the frame, as shown below:



bottle. I cruised to a gentle stop beside him. I pointed out that if the hill had been a half-mile longer, I'd have won and he'd have suffered a cardiac arrest.

The conclusion? This bike is a hybrid. It does not work as a push bike, but, if you are willing to put in a very moderate amount of effort then it will more than meet you halfway. It will flatten the hills and shorten the straights. You will cover easily distances and terrain that would challenge a road cyclist. And you can do it with none of the daft lycra!

Alistair Heather

Easygo 
Electric Bikes Ltd

29. Exhibit **EG 002-3** provides an advertisement published in the 'Linlithgow Gazette', which Mr Cullen dates as being from April 2016. The exhibit states that the Proprietor supplies a range of full size and folding electric bikes, with demo bikes available from major brands of Raleigh, Batribike and Haibike. The Easygo mark is clearly displayed on the advertisement, which also contains third party trade marks, as shown below:

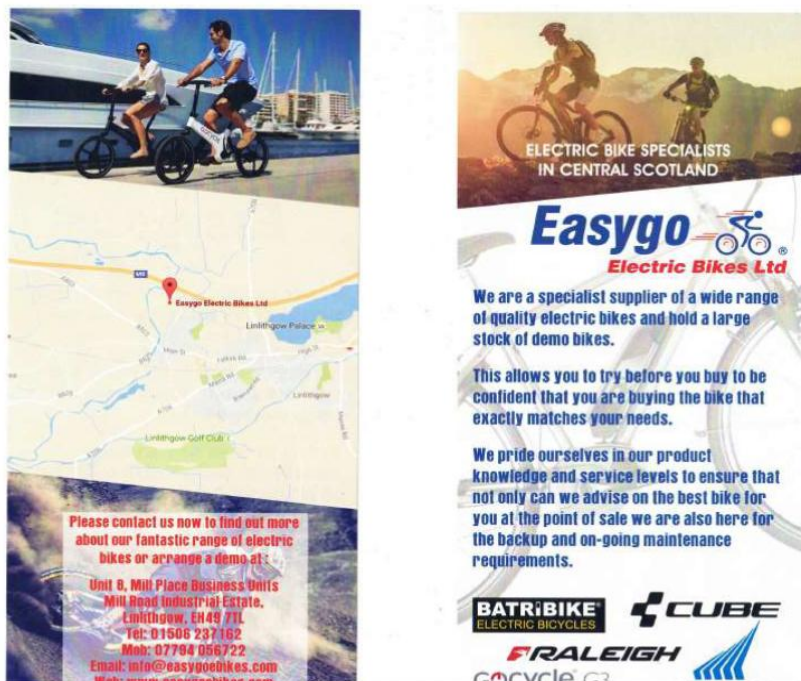


30. Exhibit **EG 002-4** provides an advertisement published in the 'Linlithgow Gazette'. I note that the Proprietor dates the document as being from August 2016, however, the content of the document suggests this exhibit dates from 2015, in view of the sale ending on 31st October 2015. I consider this to be a typographical error by the Proprietor. The document relates to an end of season sale and refers to electric

bikes and ‘a small number of non-electric mountain bikes to clear’, it clearly shows the Easygo mark, next to a mark for Batribike Electric Bikes, as shown below:



31. Exhibit EG 002-5 provides a promotional flyer, which Mr Cullen states was used from 2020 onwards. The document states that Easygo Electric Bikes is an electric bike specialist, based in central Scotland. The document clearly displays the Easygo mark and a range of other trade marks from third parties, as shown below:



32. Exhibit **EG 002-6** provides a promotional flyer which Mr Cullen states was in constant use, however, no specific date is provided. Further to this, no information has been provided regarding where and when the promotional flyers were circulated and/or where they were made available. The document shows the Easygo mark

and refers to bike hire, sales and service provided in central Scotland, as the following shows:



Easygo 
Electric Bikes Ltd

Electric bike hire, sales and service in Central Scotland.

Get in touch today to book your free personalised demonstration.

T: 01506 237162 or 07794 056722
W: www.easygoebikes.com
A: Unit 9, Mill Place Business Units, Mill Road Industrial Estate, Linlithgow EH49 7TL

BATRiBIKE
ELECTRIC BICYCLES

33. Exhibit **EG 002-7** provides a flyer regarding the SimpleCycle2Work scheme, including example pricing for a Batribike electric bike, as shown below:



cycle 2 Work but simple!

SimpleCycle2Work 

**"Brilliant new concept!
Makes C2W
widely available."**

BATRiBIKE
ELECTRIC BICYCLES

Get one of these electric bikes worth £1000 through the Simple Cycle 2 Work Scheme and **SAVE £316!**

You pay £57 per month for 12 months which is just £684! Saving you £316* on the RRP of a Batribike electric bike.

* Individuals have differing tax codes and your saving may differ from the example shown

The Cycle to Work scheme means employees can save up to 42% on the price of a new bike but it's complex to implement!

Which is a pity because it's a great benefit. You can have any bike up to £1,000 and pay monthly. If only there was an easy way!

Now there is! SimpleCycle2Work is a revolutionary concept that makes it easy for any employer or employee to run a Cycle to Work scheme.

Ask us for a quote now!

Easygo 
Electric Bikes Ltd

Contact us now to find out more about this fantastic saving and the easy way to purchase a bike through "simplecycle2work".

Tel: 01506 237 162 • Mob: 07794 056 722
Email: info@easygoebikes.com • Web: www.easygoebikes.com
Unit 9, Mill Place Business Units, Mill Road Industrial Estate, Linlithgow EH49 7TL

No date of publication, or information regarding the circulation or geographical reach of the flyer has been provided. I am therefore unable to ascertain with any certainty whether it dates from within the relevant periods.

34. **EG 002-8** provides an advertisement published in the 'Dell Directory' which Mr Cullen states was used from 2015 onwards. The document states that the Proprietor focuses on Batribike folding and full size electric bikes, with the Batribike Electric Cycles mark shown in addition to the Easygo mark on the advertisement. The document, as shown below, further states that ongoing service requirements are offered from the Proprietor's premises in Linlithgow, and that demonstrations can be provided by appointment.



35. I note that advertising or marketing figures have not been provided for the second relevant period. However, Mr Cullen states that in 2017 the company began to place more emphasis on social media via newsletters, Facebook and the Proprietor's website. However, no evidence has been provided in relation to use of the

Proprietor's mark on Facebook or any other social media platforms, nor do I have any evidence before me regarding the content, nature, or reach of the Proprietor's website.

36. Exhibit **EG 003-1** provides a 'sample' newsletter regarding ebike servicing provided by the Proprietor. I note that this document was sent from the Proprietor (Easygo Electric Bikes Ltd) to Mr Cullen; in view of this, the document is of little probative value. Exhibit **EG 003-2** provides a 'sample' newsletter regarding a sale of ex-display bikes from a range of brands, as shown below:



No details have been provided in relation to the frequency the newsletters were sent to customers, nor the reach or circulation of such documents.

37. Exhibit **EG 003-3** provides a 'sample' email template displaying the Easygo mark. It is noted that the email, sent from Mr Cullen to himself, dated 09 April 2025 falls outside of the relevant periods, as the following shows:



38. Exhibit **EG 003-4** provides a screenshot of the Proprietor’s website home page. The document is undated and no analytics have been provided to demonstrate website traffic, or the geographical reach of visitors to the site. The website states that Easygo sell electric bikes and offer servicing and repair for a number of third party bikes, as shown below:



The content of the document provided does not contain anything to suggest that electric bikes can be purchased online from the Proprietor’s website.

39. Exhibit **EG 003A-1** provides a summary of invoices paid to Kreative Dimension (totalling £6,468) from 2013 to 2024, for services including website hosting, website design and website changes. I note that some of these dates predate the relevant period. The period 2023-24 is the only year which references a newsletter, at a cost of £67.50.

40. Exhibit **EG 003A-2** provides two ‘Google Ads’ invoices addressed to Gordon Cullen, Easygo Electric Bikes Ltd. The first invoice, dated 31 December 2018, totals £91.20 and the second invoice, dated 31 August 2022, totals £92.27. Mr Cullen states that these figures are typical of monthly invoices during the relevant periods. No

analytics are provided as to the reach or nature of those adverts. As no information has been provided regarding the content of the Google Ads, I am unable to discern with any certainty which of the Proprietor's goods or services they relate to.

41. Further to the above, it is noted that the 'Google Ads' invoice dated 31 August 2022 refers to regulatory operating costs from a number of countries, as shown below:

Google Ads	
Total in GBP	£92.27
Summary for 1 Aug 2022 - 31 Aug 2022	
Amount in GBP	£90.76
VAT (0%)	£0.00
Turkey Regulatory Operating Cost *	£0.06
UK DST Fee *	£1.28
Spain regulatory operating cost *	£0.01
France Regulatory Operating Cost *	£0.02
Italy regulatory operating cost *	£0.02
India Regulatory Operating Cost *	£0.12
VAT (0%)	£0.00
Total in GBP	£92.27

This information suggests that some of the invoiced costs relate to online engagement outside of the UK, in countries including Turkey, Spain, France, Italy and India. In view of this, I am unable to discern with any certainty how much of the total invoice relates to UK customers.

42. Exhibit **EG 004** provides photos showing the Easygo mark displayed on the wall of the Proprietor's shop and workshop premises, as shown below:





I note that the images are undated, therefore I am unable to ascertain with any certainty whether the Easygo mark was displayed on the wall of the Proprietor's shop and workshop during the relevant periods.

43. Exhibit **EG 005** provides three invoices featuring the Easygo mark. The invoices show individual sales of 'Batribike Gamma S', 'Batribike Delta eMTB' and 'Haibike Trekking 7' electric bikes between 2022 and 2023. The invoices also cover the supply and fit of components to those bicycles, namely 'Shimano SPD-M234 pedals', 'Graphic Displays' and 'throttles'. The value of these invoices totals £12,517.70. However, the invoices have been redacted to remove customer addresses, therefore I am unable to ascertain the geographical reach of sales (e.g. whether such sales are limited to the immediate area around the Proprietor's shop, i.e. Linlithgow (West Lothian, Scotland) or if the sales are UK wide). Mr Cullen's witness statement states that 850 bikes were sold during the relevant period, however, the unit price for these bikes is not provided.⁴
44. Exhibit **EG 006** provides five 'sample' service reports showing the Easygo mark. These reports appear to relate to inspections and diagnostic reports related to electric bikes. Of the documents provided, I note that exhibit **EG006-1** is undated and **EG006-5A-C** is dated outside of the relevant period. The service reports provided have been redacted to remove customer addresses, therefore I am unable to ascertain whether the geographical reach of the services provided is limited to the immediate area around the Proprietor's premises in Linlithgow or are UK wide.

⁴ Witness statement of Mr Gordon David Cullen, paragraph 7.

In any event, the servicing or diagnostic services shown are not the relevant goods and services at issue as they are not covered by the Proprietor's specification as it currently stands.

45. Exhibit **EG 007-1** to **007-4** provides leaflets and advertisements relating to the hire of electric bikes. The examples below show the Easygo mark alongside information for the hire of electric bikes, provided in Linlithgow and central Scotland:

Hiring Requirements

In the interests of safety and security we do need to insist that the hirer provides us with the following information and follows the requirements listed below :-

- 1) The rider must be over 14 years of age.
- 2) Photographic proof of identity (passport or driving licence), main address (and holiday address if appropriate) must be provided on collection/delivery of the bike.
- 3) If payment is not by debit or credit card then an electronic swipe of a debit card must be taken for £25.00. This is refundable on the return of the bike in a satisfactory condition. (Any subsequent damage or loss of the bike due to neglect will be chargeable).
- 4) Helmets are provided at no extra charge and must be used by the rider at all times while cycling.
- 5) Security locks are provided and must be used whenever the bike is left unattended.
- 6) A battery charger will be provided for hires of more than 1 day. It is only permitted to use this charger to charge the battery.

Easygo Electric Bikes Ltd
Cycling made easy with Electric Motor Assistance

	1 DAY	2 DAYS	3 DAYS	4 DAYS	5 DAYS	6 DAYS	7 DAYS
1 Bike	£30.00	£59.00	£87.00	£114.00	£140.00	£165.00	£189.00
2 Bikes	£39.00	£78.00	£117.00	£156.00	£195.00	£234.00	£273.00
3 Bikes	£37.00	£74.00	£111.00	£148.00	£185.00	£222.00	£259.00
4 Bikes	£114.00	£228.00	£342.00	£456.00	£570.00	£684.00	£798.00
5 Bikes	£100.00	£200.00	£300.00	£400.00	£500.00	£600.00	£700.00
6 Bikes	£165.00	£330.00	£495.00	£660.00	£825.00	£990.00	£1155.00

Prices include VAT (a one day booking is from 10.00 am to 5.00 pm). A discount of £30 will apply to any bike purchased by the hirer within a 30 day period of the hire date.

Easygo Electric Bikes Ltd
Electric Bike Hire in Linlithgow

Electric bike hire and sales in Central Scotland, including bike hire at The Helix & Kelpies, the Falkirk Wheel & Beecrofts Country Park.

Easygo Electric Bikes Ltd

The Falkirk Wheel, Beecrofts Country Park, The Kelpies & The Helix

46. **EG 007-4** provides an advertising feature published in the 'Falkirk Herald' which details the hire of Batribike electric bikes offered by the Proprietor at 'The Helix' a 'brand new visitor attraction this summer'.

47. As none of the documents provided at **EG 007** are dated, I am unable to ascertain with any certainty whether they were published during the relevant periods. In addition, no information has been provided regarding the circulation or geographical reach of the flyers/advertisements in evidence. Further, no evidence has been filed in relation to the number of customers who used the hire services provided by the Proprietor, nor any invoices relating to the hiring of electric bikes.

48. Exhibit **EG 008** provides a photo of a promotional event, although I have not been provided with any information regarding where in the UK the promotional event took place, nor the number of attendees at the event. Exhibit **EG 009** provides images of the Easygo mark on business cards and notepaper. These documents all show the Easygo mark, however, none of the documents are dated and therefore I am unable to ascertain with any certainty, whether they date from within the relevant periods. Further, I am unable to ascertain how and where the business cards were distributed or how and where they were made available.

Genuine use

Assessment of Evidence

49. Whether the use shown in the evidence is sufficient to constitute genuine use will depend on whether there has been real commercial exploitation of the mark, in the course of trade, sufficient to create or maintain a market for the goods and services at issue during the relevant five-year periods. In making my assessment, I must consider all relevant factors, including:

- the scale and frequency of the use shown;
- the nature of the use shown;
- the goods and services for which use has been shown;
- the nature of those goods and services and the market(s) for them; and
- the geographical extent of the use shown.

50. An assessment of genuine use is a global assessment, which includes looking at the evidential picture as a whole, not whether each individual piece of evidence shows use by itself. It is possible for an accumulation of evidence to show use, even if individual items of evidence would on their own be insufficient proof: see *New Yorker SHK Jeans GmbH & Co. KG v OHIM*, Case T- 415/09, paragraph 53. However, where there is no use of the mark in respect of the goods and services as registered, it follows there has been no genuine use of the mark: *Dosenbach-*

Ochsner Ag Schuhe Und Sport v Continental Shelf 128 Ltd, Case BL 0/404/13, paragraph 22.

51. Case law does not specify particular types of documentation that must be adduced in evidence. When considering the evidence, I am entitled “to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive”: (see *PLYMOUTH LIFE CENTRE*, BL O/236/13, paragraph 22). However, I remind myself that I must evaluate all the evidence submitted in an overall assessment, and that although pieces of evidence may be insufficient by themselves, they may contribute to proving use in combination.
52. Accordingly, the burden is on the Proprietor to prove that it has used its mark within the relevant period on the goods and services for which use is claimed. Therefore, it was the Proprietor’s responsibility to provide proof that the mark was used in the UK during the five-year relevant periods. In my analysis above, I have highlighted numerous shortcomings in the evidence.
53. At the outset, as can be seen from my evidence analysis above, I have no evidence before me to demonstrate that the Proprietor’s mark has been used during the relevant periods in relation to any of the following goods:

Class 12: Inner tubes for cycles; Bag carriers for cycles; Bells for cycles; Brake levers for cycles; Carriers for cycles for use on vehicles; Chains for driving cycles; Cog wheels for cycles; Covers for foot pedals on cycles; Covers for handgrips of cycles; Direction indicator signals for cycles; Direction indicators for cycles; Frames for cycles; rips for handlebars of cycles; Handlebars for bicycles or cycles; Kickstands for cycles; Luggage carriers for cycles; Pedal bicycles; Pumps for cycles; Saddle covers for cycles; Saddles for cycles; Stands for cycles (parts of); Tubeless tyres for cycles; Warning systems (audible-) for cycles; Baskets adapted for cycles; Panniers adapted for cycles; Inner tubes for bicycles cycles; Frames for bicycles, cycles; Saddles for bicycles or cycle ; Bells for bicycles, cycles; Warning systems (Audible -) for cycles;

Dress guards for bicycles, cycles; Spokes for bicycles, cycles; Wheels for bicycles, cycles; Pedals for cycle ; Pumps for bicycles, cycles; Rims for wheels of bicycles, cycles; Cranks for cycles; Brakes for bicycles, cycles; Tires for bicycles, cycles; Gears for cycles; Handle bars for bicycles cycles; Cycles; Stands for bicycles, cycles (parts of bicycles, cycles); Chains for bicycles, cycles; Inner tubes for cycles; Bag carriers for cycles; Bells for cycles; Brake levers for cycles; Carriers for cycles for use on vehicles; Cog wheels for cycles; Covers for foot pedals on cycles; Covers for handgrips of cycles; Direction indicator signals for cycles; Direction indicators for cycles; Frames for cycles; Grips for handlebars of cycles; Handlebars for bicycles, cycles; Kickstands for cycles; Luggage carriers for cycles; Pedal bicycles; Pedal cycles; Pumps for cycles; Saddle covers for cycles; Baskets adapted for cycles; Panniers adapted for cycles; Inner tubes for bicycles, cycles; Frames for bicycles, cycles; Saddles for bicycles or cycles; Bells for bicycles, cycles; Pedals for cycles; Pumps for bicycles, cycles; Rims for wheels of bicycles, cycles; Cranks for cycles; Brakes for bicycles, cycles; Gears for cycles; Handle bars for bicycles, cycles.

54. Accordingly, the Proprietor's evidence of use fails to adequately demonstrate genuine use of the mark in relation to these goods.

55. With regard to the Proprietor's remaining goods, namely:

Class 12: Electrically assisted pedal cycles, electrically assisted bicycles.

I note that throughout the Proprietor's evidence the Easygo mark is used alongside marks for third party brands, such as BatriBike. However, no evidence has been provided of bicycles bearing the Easygo mark itself. On this point, I note that exhibit EG 002-3 states that Easygo Electric Bikes Ltd 'are a centre of excellence for electric bikes with a wide range of demo stock for our major brands of Raleigh, Batribike and Haibike.' Bearing this in mind, the evidence before me does not demonstrate that the Proprietor is responsible for the manufacture or sale of electric bicycles or bicycle parts under the Easygo mark.

56. With regard to the Proprietor's services, namely:

Class 35: Retail services connected with the sale of Pedal Cycles, frames for bicycles, cycles, electrically assisted pedal cycles, electrically assisted bicycles, Cranks for Cycles, Rental of Cycles; Handlebars for Cycles, electrically assisted pedal cycles, electrically assisted bicycles; Sales promotion for third parties.

Class 39: Rental of cycles; rental of electrically assisted pedal cycles, rental of electrically assisted bicycles.

Allowing for favourable assumptions, it is apparent from the evidence that there has been some use of the Proprietor's Easygo mark in relation to the sale and hire of electric bikes. However, as highlighted above, I have found numerous shortcomings in the evidence. I must now assess whether the evidence is sufficient to constitute genuine use in relation to these services.

57. The turnover figures provided have not been broken down to show how much of the turnover relates to the Proprietor's retail or rental services, nor have I been provided with any costs associated with these services throughout the relevant periods, other than those provided in the undated 'Hire Flyer' (exhibit EG 007-2). Accordingly, based on the turnover figures before me, it is impossible for me to ascertain how many of the Proprietor's bicycles/electric bicycles and bicycle related goods were sold, or how many bicycles/electric bicycles were hired, in the UK, during the relevant periods. Further, it is unclear whether the turnover figures provided also encompass turnover arising from servicing and maintenance services, which as demonstrated by the evidence, are services offered by the Proprietor under the Easygo mark. However, I do not consider that these services are covered by the specification of the Proprietor. On this point, I note from Mr Cullen's witness statement that the Proprietor sold around 850 bikes between 2015 and 2024 and serviced around 300 bikes.⁵ This suggests that a not insignificant

⁵ Witness statement of Mr Gordon David Cullen, paragraph 7.

proportion of the overall turnover may have resulted from servicing and maintenance services. In view of this, I am unable to discern with sufficient confidence which of the Proprietor's services, as registered, the turnover figures actually relate to.

58. Similar issues arise from the evidence provided in relation to marketing, where the figures submitted have not been sufficiently particularised to show how they relate to the specific goods and services at issue. In addition, the marketing information provided does not demonstrate the frequency or geographical reach of such marketing, or who was exposed to the marketing, nor does it tell me the volume of UK custom generated from the marketing, or the extent to which the relevant UK consumer had been exposed to the Easygo mark through the marketing. Further, with regards to the example printed advertisements and articles provided in evidence, I have no evidence before me in respect of the circulation of such publications, for example, were they circulated throughout the UK or just in and around Linlithgow, West Lothian and Scotland. Further, while Mr Cullen states that a focus was placed on social media advertising during the second relevant period, details of the Proprietor's Easygo social media pages have not been provided in the evidence, nor have I been provided with information regarding the number of visitors to the Proprietor's social media pages during the relevant periods. Therefore, I am unable to ascertain the volume of UK custom generated from the Proprietor's social media pages, or the extent to which UK consumers had been exposed to the Easygo mark through visiting the social media pages.

59. Taking all the above into account and bearing in mind not only section 100 of the Act but also the respective comments of Mr Alexander KC and Mr Hobbs KC in *Plymouth Life and Dosenbach*, I find that the evidence of use is insufficiently solid to adequately allow me to find that the Proprietor has demonstrated real commercial exploitation of the contested mark in relation to the goods and services for which use is claimed in the UK, during the relevant period. In view of the issues raised, I cannot determine with sufficient confidence the precise nature, extent, frequency and geographical scope of the use relied upon. Put simply, the nature of the evidence and the issues discussed throughout my assessment of the same do not,

in my view, allow me to make the reasonable inferences necessary in order to find in favour of the Proprietor.

60. I note Mr Alexander's comments in *Guccio Gucci SPA v Gerry Weber International AG*, Case BL O/424/14, where he stated that:

"56. The Registrar says that it is important that a party puts its best case up front – with the emphasis both on "best case" (properly backed with credible exhibits, invoices, advertisements and so on) and "up front" (that is to say in the first round of evidence). Again, he is right. If a party does not do so, it runs a serious risk of having a potentially valuable trade mark right revoked, even where that mark may well have been widely used, simply as a result of procedural error. The rule is not just "use it or lose it" but (the less catchy, if more reliable) "use it - and file the best evidence first time round - or lose it". (Original emphasis)

61. As previously stated, Case law does not specify particular types of documentation that must be adduced in evidence. However, I remind myself that when considering the evidence, I am entitled "to be sceptical of a case of use if, notwithstanding the ease with which it could have been convincingly demonstrated, the material actually provided is inconclusive".⁶

62. Accordingly, whilst I consider that the Proprietor has attempted to create a market for its services under the Easygo mark in the UK, the evidence fails to sufficiently demonstrate that such a market was established and then preserved in the UK during the relevant periods. I keep in mind the principles outlined above which recognise that even proven commercial use may not be sufficient for a finding of genuine use. Therefore, for the reasons set out above, overall, I am of the view that the evidence is insufficient to allow me to find that the Proprietor has demonstrated real commercial exploitation of its Easygo mark in relation to any of the goods or services for which use is claimed within the relevant period. The consequence of this is that the Proprietor has not shown genuine use of its mark for any of the goods

⁶ *Plymouth Life Centre*, BL O/236/13, paragraph 22.

or services at issue. Consequently, registration of the mark will be revoked for all goods and services for which it is registered.

CONCLUSION

63. The application for revocation on grounds of non-use under section 46(1)(a) and 46(1)(b) succeeds in its entirety. As such, subject to any successful appeal, the Proprietor's registration is revoked in full. The effective date of revocation is 24 January 2024.

COSTS

64. The Applicant has been successful and is entitled to a contribution towards their costs. In the circumstances I award the Applicant the sum of £550 as a contribution towards the cost of the proceedings, in accordance with Tribunal Practice Notice 1/2023. The sum is calculated as follows:

Official fee:	£200
Preparing and filing the TM26(N) and considering the counterstatement:	£350
Total:	£550

65. I therefore order Easygo Electric Bikes Ltd to pay Kilburn & Strode LLP the sum of £550. The above sum should be paid within twenty-one days of the expiry of the appeal period or within twenty-one days of the final determination of this case if any appeal against this decision is unsuccessful.

Dated this 8th day of June 2026

Emma Rees
For the Registrar