

O/0712 /25

TRADE MARKS ACT 1994

**IN THE MATTER OF
TRADE MARK APPLICATION NO. UK00004125364
BY NATIONAL WEALTH FUND LIMITED
TO REGISTER THE FOLLOWING SERIES OF TRADE MARKS:**



IN CLASSES 35 AND 36

AND

**IN THE MATTER OF OPPOSITION THERETO
UNDER NO. 453104
BY GARY WALKER**

Background and pleadings

1. On 15 November 2024, National Wealth Fund Limited (“the applicant”) applied to register the series of trade marks shown on the cover page of this decision in respect of services in classes 35 and 36. The applicant represents himself.
2. On 17 March 2025, Gary Walker (“the opponent”) initially filed a Form TM7. However, this was deemed inadmissible by the Tribunal and after several amendment attempts the Tribunal took the preliminary view to strike out the pleadings on the basis that they were not relevant to the grounds pleaded, as there did not appear to be reasonable grounds for bringing the claim. In relation to the section 5(4)(a) ground for passing off, this was because Mr Walker had not identified any goodwill or reputation attached to the services claimed to have been supplied under the unregistered mark that will be recognisable to the general public. With regards to section 5(4)(b) which prohibits a mark being registered by virtue of an earlier right, in this case copyright, the contested mark did not appear to be infringing any work of copyright. Following the opponent’s objection to this preliminary view a procedural hearing was convened on 2 July 2025. The opposition is brought against all the services of the application on the basis of sections 5(4)(a) and 5(4)(b) of the Trade Marks Act 1994 (“the Act”). The opponent is professionally represented by Mills and Reeve LLP.
3. The hearing was attended by Mr Walker representing himself as the opponent, and for the applicant, Ms Knott of Hogarth Chambers instructed by Mills and Reeves LLP. Prior to the hearing Ms Knott filed a skeleton argument whilst the opponent elected to file written submissions, both of which I have taken into consideration.
4. At the procedural hearing it became apparent that Mr Walker had not used his unregistered mark on the market for the services claimed. In the papers it was said that he had submitted a paper to the Treasury containing his proposal of an alternative funding model to the Private Financial Initiative (PFI) to finance public health projects. He called this idea the National Wealth Service. At the hearing he explained that without the backing of the Treasury his idea for a National Wealth Service could not exist. He later discovered that the National Wealth Fund had been established and

claims within his pleadings that the National Wealth Fund is now worth over £27 billion,¹ and if the Government had agreed to a commercial enterprise with him and his company rather than using his concept and ideas and then investing in an alternative business, even at a 25% share, the commercial detriment would reach many millions of pounds.²

5. Importantly, for section 5(4)(a) to be successfully pleaded, the first hurdle is a requirement of goodwill within an earlier unregistered right. Without the ability to demonstrate that an earlier unregistered right has acquired goodwill and reputation that will be recognised by the public for certain goods or services, a case under s5(4)(a) has no merit. Therefore, there is clearly no prospect of success under s5(4)(a).

6. Next, I turn to the matter of section 5(4)(b). Under this ground, as discussed above, Mr Walker argues that the applicant has stolen his concept and idea of an alternative funding model which he named the National Wealth Service, a concept which has been stolen and renamed the National Wealth Fund. Mr Walker relies on a paper that he submitted to the Government regarding his proposal and idea for a National Wealth Service which was an idea that involved an alternative funding structure to the one in use at the time of writing the paper, which was the Private Financial Initiative (PFI).³ Having read Mr Walker's paper, the alternative funding structure is one that is presented as an ethical and responsible approach to generating wealth for the country in order to fund services for communities across the UK through both the public sector and private investors in an integrated national solution. Where assets are owned within a National Wealth Service Community Infrastructure Fund, but with the pillars of "*trust, fairness and transparency*" purportedly being at the heart of the alternative funding structure. This paper is the work that is being relied upon as one that is subject to copyright law. At the hearing, when asked in what precisely he claimed to have copyright protection Mr Walker identified copyright to be in two things; first, the concept and ideas as laid out in the paper provided, i.e. the concept of an alternative funding structure, and second, the words "National Wealth Service" themselves.

¹ Mr Walker's written submissions, page 3.

² Ibid.

³ A procurement method where private sector finances build and operate infrastructure and provide long term services through contractual agreements.

7. In order to plead section 5(4)(b) Mr Walker must show that he has an earlier 'work' that is protected under copyright law in order to bring a claim against an applied for mark on the basis that it violates his earlier copyright.
8. For a work to have copyright protection it must be a 'work' under the Copyright, Designs and Patents Act 1988 ("CDPA").

Section 1 of the CDPA states that:

"Copyright is a property right which subsists in accordance with this Part in the following descriptions of work—

- (a) original literary, dramatic, musical or artistic works,
- (b) sound recordings, films or broadcasts, and
- (c) the typographical arrangement of published editions."

Section 3 states as follow:

(1) In this Part—

"literary work" means any work, other than a dramatic or musical work, which is written, spoken or sung, and accordingly includes—

- (a) a table or compilation [other than a database], . . .
- (b) a computer program; . . .
- (c) [preparatory design material for a computer program] ...
- (d) [a database]

9. The first matter identified by Mr Walker as having copyright protection was his concept or idea, primarily, of an alternative funding structure. Even if I were to accept, that the concepts and ideas within the paper of an alternative funding structure was one that was originally envisioned by Mr Walker, concepts and ideas are not protected under copyright law but rather the form in which they are expressed, i.e. in this case the written paper containing these ideas, in the words used in that paper. This was confirmed recently in *Wright v BTC Core* [2023] EWCA Civ 868 at paragraph 35

“[...] More importantly for present purposes, it has always been understood that the Berne Convention does not protect ideas, and nowadays the fact that copyright does not extend to ideas is confirmed by Article 9(2) of TRIPS and Article 2 of the WIPO Copyright Treaty: see Ricketson and Ginsburg at 8.09.”

Therefore, the concept and ideas within the paper that Mr Walker has identified cannot be relied upon as earlier rights as they are only subject to copyright protection in the form in which they are expressed. For example, if the paper itself had been copied, that would be a different matter, as the paper itself is in a form that has copyright protection, but it is not the paper that is said to have been replicated, only the ideas within it. Consequently, Mr Walker does not have sufficient grounds to bring a claim under section 5(4)(b) on this basis.

10. Turning to the second matter identified as having copyright protection, I note that this consists of the words “National Wealth Service”, which are found within the paper. Whilst copyright protection can exist in part of a work, it has been held previously that copyright protection cannot exist in a single word or phrase. This was set out by Mr Prescott QC (as he then was) in the High Court in *R Griggs Group Ltd v Evans* [2003] EWHC 2914 (Ch), which was later affirmed by the Court of Appeal: (footnotes omitted)

“Copyright law protects the skill and labour that has gone into the creation of an original work. A simple word or phrase, like “Dr Martens”, is not capable of being copyright, and for two reasons. First, it is not a ‘work’. Secondly, and in the ordinary way, its creation does not imply sufficient literary skill or labour. So no-one has ever had a copyright in the phrase “Dr Martens”, as such.”⁴

11. I am also mindful that whilst considering this point Mr Prescott Q.C considered the cases *Exxon Corp v. Exxon Insurance Consultants International Ltd* [1982] Ch 119, C.A. (where it was held that copyright protection did not exist in a single word regardless of the fact that it was an invented word), and *Francis Day & Hunter Ltd v. Twentieth Century Fox Corpn* [1940] AC 112, PC, (where it was held that copyright protection did not exist for the phrase “The Man Who Broke the Bank at Monte Carlo”).

⁴ Paragraph 17

12. With this in mind, I must consider whether it is possible for copyright protection to exist for the phrase “National Wealth Service”, setting aside for a moment the hurdle of originality which is necessary in order for there to be copyright protection. Applying the case law above, I am not satisfied that the words or phrase “National Wealth Service” is a work under CPDA. A word or phrase within a literary work, without the context of the literary work subject to copyright, cannot be said to have copyright protection of itself as it does not imply sufficient literary skill or labour to warrant such protection. Therefore, the opponent cannot rely on section 5(4)(b) as there is no ‘work’ under the CPDA that the opponent can rely on to prevent the applied for mark from being registered.
13. Irrespective of originality, I have found that the words/phrase “National Wealth Service” is not a literary work under the CPDA and cannot be relied upon for pleading section 5(4)(b).

COSTS

14. Given that the outcome of this decision has terminated the proceedings, the applicant is entitled to a contribution towards its costs, based on the scale published in Tribunal Practice Notice 1 of 2023.
15. In the circumstances, as the applicant (through its representatives) filed a skeleton argument and attended the hearing, I find it appropriate to issue a costs award of £350.
16. I therefore order Mr Gary Walker to pay National Wealth Fund Limited the sum of **£350**. This sum is to 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 31st day of July 2025

S Wallace
For the Registrar