

O/1093/25

TRADE MARKS ACT 1994

IN THE MATTER OF UK REGISTRATION NO. 3740166

IN THE NAME OF ONLINEMOTO LIMITED

IN RESPECT OF THE FOLLOWING TRADE MARK

Pet Family

AND

**AN APPLICATION FOR A DECLARATION OF THE INVALIDITY
THEREOF UNDER NO 506720**

BY

PET FAMILY GROUP LIMITED

Background and pleadings

1. On 6 January 2022, onlinemoto Limited (“the proprietor”) applied for the trade mark “Pet Family” in the UK. It was registered on 26 August 2022 in respect of the following services in class 35:

Retail services connected with the sale of Pet Products

2. On 22 November 2023, Pet Family Group Limited (“the applicant”) filed an application to have this trade mark declared invalid in its entirety under the provisions of section 5(4)(a) of the Trade Marks Act 1994 (“the Act”), which are relevant in invalidation proceedings under section 47 of the Act.

3. The applicant claims to have used the sign **PET FAMILY** throughout the UK since 2017 in respect of the following goods and services:

Medicated creams and sprays for pets; pet food supplements; herbal remedies for pets; health/vitamin supplements for pets; supplements and tonics.

Animal carriers; collars for pets; pet leads; clothing for pets.

Pet furniture; pet crates; pet cushions; kennels for household pets; hutches for animals.

Pet feeding bowls; pet drinking bowls; pet feeding and drinking bowls; automatic pet feeders; pet grooming accessories; brushes for grooming.

Pet toys; toys and playthings for pet animals.

Pet food; food for animals; foodstuffs for pet animals; edible pet treats; edible chews for animals; biscuits for animals; canned foods for animals.

Retail services in relation to medicated creams and sprays for pets, pet food supplements, herbal remedies for pets, health/vitamin supplements for pets,

animal carriers, collars for pets, pet leads, clothing for pets, pet furniture, pet crates, pet cushions, kennels for household pets, hutches for animals, pet feeding bowls, pet drinking bowls, pet feeding and drinking bowls, automatic pet feeders, pet grooming accessories, brushes for grooming pets, pet toys, toys and playthings for pet animals, pet food, food for animals, foodstuffs for pet animals, supplements and tonics, edible pet treats, edible chews for animals, biscuits for animals, canned foods for animals; online retail services in relation to Medicated creams and sprays for pets, pet food supplements, herbal remedies for pets, health/vitamin supplements for pets, animal carriers, collars for pets, pet leads, clothing for pets, pet furniture, pet crates, pet cushions, kennels for household pets, hutches for animals, pet feeding bowls, pet drinking bowls, pet feeding and drinking bowls, automatic pet feeders, pet grooming accessories, brushes for grooming pets, pet toys, toys and playthings for pet animals, pet food, food for animals, foodstuffs for pet animals, supplements and tonics, edible pet treats, edible chews for animals, biscuits for animals, canned food for animals.

Pet day care services.

Veterinary services; veterinary surgery; care of animals; services for the care of pet animals; pet grooming; grooming salon services for pet animals; pet grooming services; pet bathing services.

4. The applicant also claims to have used the following figurative sign in respect of the goods and services laid out below:

PetFamily.
Family owned since 1968

Medicated creams and sprays for pets; pet food supplements; herbal remedies for pets; health/vitamin supplements for pets; supplements and tonics.

Animal carriers; collars for pets; pet leads; clothing for pets.

Pet furniture; pet crates; pet cushions; kennels for household pets; hutches for animals.

Pet feeding bowls; pet drinking bowls; pet feeding and drinking bowls; automatic pet feeders; pet grooming accessories; brushes for grooming pets.

Pet toys; toys and playthings for pet animals.

Pet food; food for animals; foodstuffs for pet animals; edible pet treats; edible chews for animals; biscuits for animals; canned foods for animals.

Retail services in relation to medicated creams and sprays for pets, pet food supplements, herbal remedies for pets, health/vitamin supplements for pets, animal carriers, collars for pets, pet leads, clothing for pets, pet furniture, pet crates, pet cushions, kennels for household pets, hutches for animals, pet feeding bowls, pet drinking bowls, pet feeding and drinking bowls, automatic pet feeders, pet grooming accessories, brushes for grooming pets, pet toys, toys and playthings for pet animals, pet food, food for animals, foodstuffs for pet animals, supplements and tonics, edible pet treats, edible chews for animals, biscuits for animals, canned food for animals; online retail services in relation to Medicated creams and sprays for pets, pet food supplements, herbal remedies for pets, health/vitamin supplements for pets, animal carriers, collars for pets, pet leads, clothing for pets, pet furniture, pet crates, pet cushions, kennels for household pets, hutches for animals, pet feeding bowls, pet drinking bowls, pet feeding and drinking bowls, automatic pet feeders, pet grooming accessories, brushes for grooming pets, pet toys, toys and playthings for pet animals, pet food, food for animals, foodstuffs for pet animals, supplements and tonics, edible pet treats, edible chews for animals, biscuits for animals, canned food for animals.

Pet day care services

Veterinary services; veterinary surgery; care of animals; services for the care of pet animals; pet grooming; grooming salon services for pet animals; pet grooming services; pet bathing services

5. In its pleadings, the applicant claims to have acquired goodwill under the signs set out above, and submits that use of the contested mark would mislead the public and cause damage, including damage to its goodwill, and take unfair advantage of the repute and distinctive character enjoyed by the aforementioned signs. Consequently, it submits that use of the contested mark would be contrary to the law of passing off.

6. The proprietor filed a defence and counterstatement denying the claims made.

7. The proprietor is unrepresented, whilst the applicant is presently represented by Adams and Remers LLP.¹ Both parties filed evidence during the course of the proceedings which I will refer to later in my decision. Neither party requested a hearing, and only the applicant elected to file written submissions in lieu. This decision is taken following a careful perusal of the papers.

Relevance of EU law

8. The provisions of the Act relied upon in these proceedings are assimilated law, as they are derived from EU law. Although the UK has left the EU, section 6(3)(a) of the European Union (Withdrawal) Act 2018 (as amended by Schedule 2 of the Retained EU Law (Revocation and Reform) Act 2023) requires tribunals applying assimilated law to follow assimilated EU case law. That is why this decision refers to decisions of the EU courts which predate the UK's withdrawal from the EU.

Legislation

9. Section 47 of the Act states:

“47. (1)

(2) Subject to subsections (2A) and (2G), the registration of a trade mark may be declared invalid on the ground-

¹ Adams and Remers LLP were appointed as the applicant's representative by way of filing a form TM33P on 4 December 2024. Until then, the applicant had been represented by Knights Professional Services Limited.

(a)

(b) that there is an earlier right in relation to which the condition set out in section 5(4) is satisfied,

unless the proprietor of that earlier trade mark or other earlier right has consented to the registration.

...

(5) Where the grounds of invalidity exist in respect of only some of the goods or services for which the trade mark is registered, the trade mark shall be declared invalid as regards those goods or services only.

...

(6) Where the registration of a trade mark is declared invalid to any extent, the registration shall to that extent be deemed never to have been made: Provided that this shall not affect transactions past and closed.”

10. Section 5(4)(a) of the Act states:

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

(a) by virtue of any rule of law (in particular, the law of passing off) protecting an unregistered trade mark or other sign used in the course of trade, where the condition in subsection (4A) is met,

(aa) [...]

(b) [...]

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

11. Subsection (4A) of Section 5 states:

“(4A) The condition mentioned in subsection (4)(a) is that the rights to the unregistered trade mark or other sign were acquired prior to the date of application for registration of the trade mark or date of the priority claimed for that application.”

12. The three elements which the applicant must show to support its claim are well known. This ‘classical trinity’ was described by Lord Oliver of Aylmerton in the following terms:

“First, he must establish a goodwill or reputation attached to the goods or services which he supplies in the mind of the purchasing public by association with the identifying ‘get-up’ (whether it consists simply of a brand name or a trade description, or the individual features of labelling or packaging) under which his particular goods or services are offered to the public, such that the get-up is recognised by the public as distinctive specifically of the plaintiff’s goods or services. Secondly, he must demonstrate a misrepresentation by the defendant to the public (whether or not intentional) leading or likely to lead the public to believe that the goods or services offered by him are the goods or services of the plaintiff. Thirdly, he must demonstrate that he suffers or, in a quia timet action, that he is likely to suffer damage by reason of the erroneous belief engendered by the defendant’s misrepresentation that the source of the defendant’s goods or services is the same as the source of those offered by the plaintiff.”²

13. In *Discount Outlet v Feel Good UK*³, Her Honour Judge Melissa Clarke, sitting as a Deputy Judge of the High Court, conveniently summarised the essential requirements of the law of passing off as follows:

² *Reckitt & Colman Products Limited v Borden Inc. & Ors* [1990] RPC 341, HL

³ [2017] EWHC 1400 (IPEC)

“55. The elements necessary to reach a finding of passing off are the ‘classical trinity’ of that tort as described by Lord Oliver in the *Jif Lemon* case (*Reckitt & Colman Product v Borden* [1990] 1 WLR 491 HL, [1990] RPC 341, HL), namely goodwill or reputation; misrepresentation leading to deception or a likelihood of deception; and damage resulting from the misrepresentation. The burden is on the Claimants to satisfy me of all three limbs.

56. In relation to deception, the court must assess whether "a substantial number" of the Claimants' customers or potential customers are deceived, but it is not necessary to show that all or even most of them are deceived (per *Interflora Inc v Marks and Spencer Plc* [2012] EWCA Civ 1501, [2013] FSR 21).”

14. Halsbury’s Laws of England Vol. 97A (2021 reissue) provides further guidance with regard to establishing the likelihood of deception. In paragraph 636 it is noted (with footnotes omitted) that:

“Establishing a likelihood of deception generally requires the presence of two factual elements:

(1) that a name, mark or other distinctive indicium used by the claimant has acquired a reputation among a relevant class of persons; and

(2) that members of that class will mistakenly infer from the defendant's use of a name, mark or other indicium which is the same or sufficiently similar that the defendant's goods or business are from the same source or are connected.

While it is helpful to think of these two factual elements as two successive hurdles which the claimant must surmount, consideration of these two aspects cannot be completely separated from each other.

The question whether deception is likely is one for the court, which will have regard to:

- (a) the nature and extent of the reputation relied upon,
- (b) the closeness or otherwise of the respective fields of activity in which the claimant and the defendant carry on business;
- (c) the similarity of the mark, name etc used by the defendant to that of the claimant;
- (d) the manner in which the defendant makes use of the name, mark etc complained of and collateral factors; and
- (e) the manner in which the particular trade is carried on, the class of persons who it is alleged is likely to be deceived and all other surrounding circumstances.

In assessing whether deception is likely, the court attaches importance to the question whether the defendant can be shown to have acted with a fraudulent intent, although a fraudulent intent is not a necessary part of the cause of action”.

15. The concept of goodwill was explained in *Inland Revenue Commissioners v Muller & Co's Margarine Ltd*⁴ at 223:

“What is goodwill? It is a thing very easy to describe, very difficult to define. It is the benefit and advantage of the good name, reputation and connection of a business. It is the attractive force which brings in custom. It is the one thing which distinguishes an old-established business from a new business at its first start.”

The applicant's evidence in chief

16. The applicant's evidence in chief comprises a witness statement from its managing director, Mr Dean Anthony Richmond, dated 19 July 2024, and a witness statement

⁴ [1901] AC 217

from Mr Andrew Graham Leese, of Knights, dated 22 July 2024. Mr Richmond's statement is supported by fifteen exhibits (DAR1 – DAR15) and Mr Leese's by three exhibits (AG1-AG3). Mr Leese's statement is filed for the purpose of providing financial data including turnover and advertising spend. I take the following from the applicant's evidence:

- Pet Family began in 1968 as a pet shop in Haywards Heath, Sussex, called *Pets Corner*, with one of their main areas of business being pet food and nutrition.

- Pages from the applicant's website⁵ set out the history and evolution of the applicant's stores, as well as detailing the ethos and initiatives of the business and acquisition of third party retailers. Its website displays photographs of various *Pets Corner* locations throughout its history, as seen below:

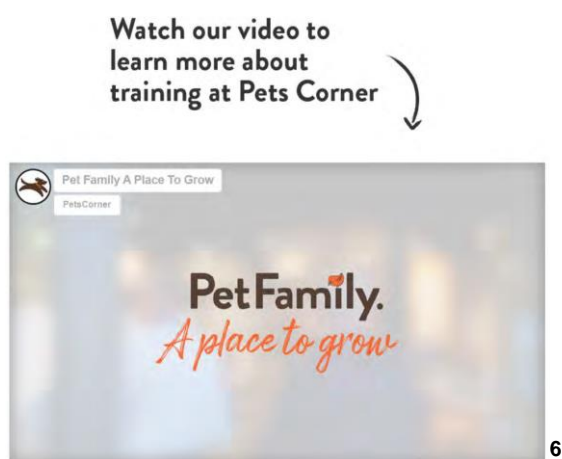


- A "Pet Family" case study from advertising agency PMW states that: "Pets Corner is an ethical pet retail chain with over 160 stores across the UK... PMW was originally employed by Pets Corner to increase its brand awareness through a programme of PR and social media." The study also makes clear that "PMW's job was to raise the profile of Pets Corner at national, regional and local levels, establishing it as a family business that genuinely cares about animals. ...Our stories were highly effective in

⁵ Mr Richmond indicates that the pages originate from both www.petfamily.co.uk and www.petscorner.co.uk. The pages are headed "Pets Corner".

engaging public interest and building Pets Corner’s reputation as an ethical and caring organisation.”

- Additional pages from the applicant’s website, also headed Pets Corner, exhibiting an interest in nutrition and pet food in particular, directs viewers to a short film where they can “Find out more about the entire Pets Corner family” as well as a video giving them an opportunity to “learn more about training at Pets Corner”, with the landing page shown below:



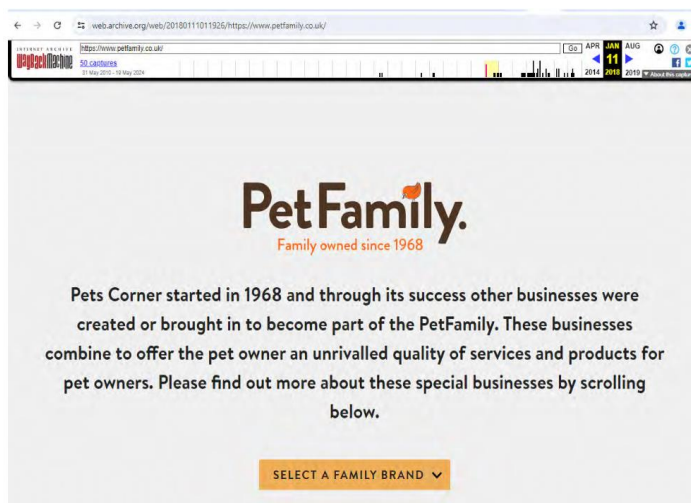
- The pages highlight various charitable initiatives, with extracts reading, for example: “Pets Corner has partnered with the wonderful team at U-Hearts Foundation”; Of the Liam Fairhurst Foundation it states: “Scampers Natural Pet Store in Soham, now part of the Pets Corner family, has been a supporter of the family’s fundraising efforts for many years. Dean Richmond, Pets Corner CEO, has pledged to continue to work that Scampers have done in supporting the foundation” and “Pets Corner became Cornerstone Patrons of the Peter Jones Foundation in 2014, to help other young people fulfil their amazing potential.”

- Mr Richmond took over the “Pet Family business” in 1998 and he explains that “Pet Family [has] become the second largest pet supplies and services business in the UK employing over 1,200 staff, with 160 stores nationwide”.

⁶ This appears to be a reflection of the *current* website

- The applicant commenced use of the PET FAMILY name and logo in “around 2017”. Mr Richmond explains that “Pet Family Limited operated as the head office company... The activities of the Pet Family holding company were then taken up by the Applicant, Pet Family Group Limited in around July 2021.”

- The applicant’s website *www.petfamily.co.uk* was registered on 24 March 2017 with an archived landing page from 11 January 2018 reproduced below:



- Since 2017, various Pet Family brands have operated under the Pet Family umbrella. Mr Richmond submits that, from this time, companies dealing with these brands, such as suppliers and business customers, will have “been well aware that they are dealing with Pet Family.”

- “Pet Family” has been used to indicate the collective of the applicant’s brands in the media. Mr Richmond directs me to a number of news articles showing use of the “Pet Family” name, including an article from banking and wealth management group Investec⁷ titled “Pet Family backed for further growth with Investec funding”.

- A further Investec article⁸ states “Pet Family plans to open four to five new stores a year over the coming few years... By looking beyond the headlines and understanding

⁷ Dated 3 October 2018

⁸ Dated 21 May 2019

the Pet Family premium led model we are delighted to be working with an ambitious business as it grows.” The article features the below image, with caption beneath:



Pet Family has expanded over the past couple of decades, now operating seven businesses that include vets, dog grooming, and premium pet food and other pet supplies from 151 stores.

- An article from <https://retail-focus.co.uk>⁹ concerning the applicant’s expansion following an eight-figure funding package from HSBC UK reads “Pet Family, which operates 150 stores across London and the South East of England under its Pets Corner brand, is using the multi-million pound funding to open ten new stores throughout England... with more to follow.” The article features images of the applicant’s Pets Corner outlets.

- Additional articles are derived from online websites such as *the business magazine*¹⁰, *insider*¹¹, *GlobalPETS*¹² and *REDtechnology.com*¹³.

- Mr Richmond’s remaining exhibits go to the standing and activities of the proprietor, specifically its company status, withdrawn trade mark applications and a dormant period of its website www.pet-family.co.uk. Mr Richmond encloses archived webpages

⁹ Dated 8 August 2023

¹⁰ ‘Crawley’s Pet Family secures HSBC support to expand at home and abroad’, 9 August 2023

¹¹ ‘Pet care firm eyes international growth with fresh backing’, 9 August 2023

¹² ‘Pet Family acquires UK’s pet retailer Astrapet’, 13 October 2023

¹³ It is not clear when the article was published but the article is headed with the Pet Family logo, reading “Multi-channel Commerce serving the pet care sector”.

from between 2013 and 2018, stating that “it can be seen that the business engaged on the site was primarily the sale of pet clothing, which quite possibly infringed the intellectual property rights of a number of household name brands.” In this regard, such a matter is not available for me to consider or determine as part of the present proceedings and, nonetheless, as Mr Richmond acknowledges, “It is not clear that this activity was carried out by Onlinemoto.” Mr Richmond also points out, using screenshots of the proprietor’s current website, that all products apart from raw dog food are marked as “out of stock”. Mr Richmond states that “It does not appear to me then that Onlinemoto has been or is currently actively engaged in any commercial activity except (perhaps) in respect of raw dog food to a limited extent, and only then since 2023...”, by which point, “Pet Family had a nationwide reputation in the relevant market in PET FAMILY”.

- I reproduce below the annual turnover of the “Applicant Group” since 2016/17:

2016/17: £55,645,562

2017/18: £57,337,846

2018/19: £60,955,979

2019/20: £62,649,648

2020/21: £77,234,106

2021/22: £87,280,892

2022/23: £96,708,199

- Of the £77,234,106 turnover generated in 2020/21, £74,883,259 is attributable to Pets Corner UK Limited, with the remaining £2,350,747 attributable to McAdams Pet Foods Limited.¹⁴ In 2022/23, pet food products accounted for over 50% of the Pet Family turnover.

- The applicant advertises “extensively” in the UK and operates an online presence via social media platforms including Facebook, TikTok, LinkedIn and Instagram. Examples of such platforms are shown below:

¹⁴ Mr Leese explains that, in 2020, the applicant created a new parent undertaking, which makes interpretation of the Companies House data ‘more difficult’.

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- The applicant group's total advertising spend for financial years 2016/17 to 2022/23 is set out below:

2016/17: £312,070

2017/18: £484,440

2018/19: £485,569

2019/20: £436,837

2020/21: £439,780

¹⁵ LinkedIn

¹⁶ Facebook, 65k followers

¹⁷ Instagram, 34.2k followers

¹⁸ TikTok

2021/22: £465,430

2022/23: £520,186

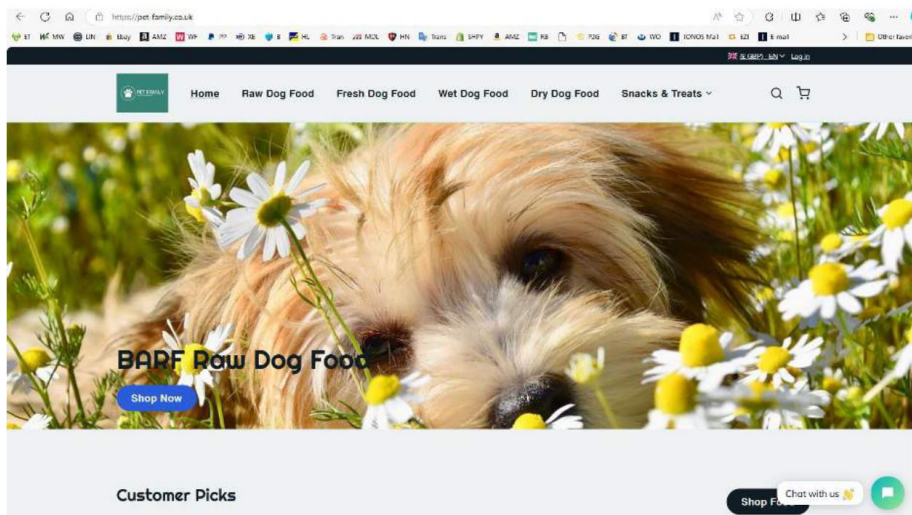
Total: £3,144,312

The proprietor's evidence

17. The proprietor filed a witness statement from its director, Mr James Jackson. Mr Jackson's statement is dated 3 November 2024 and accompanied by Exhibits PF1 to PF9. I take the following from Mr Jackson's statement:

- The proprietor conducted 'thorough research' before adopting the name 'Pet Family'¹⁹. In doing so, the proprietor became aware that domain name *www.pet-family.co.uk* was no longer active (having been used previously as an e-commerce site in 2013) and, consequently, purchased it and relaunched the website for its own operation in good faith.

- The proprietor has modernised the website under the "Pet Family" brand to sell a variety of pet supplies. A screenshot of its current website is shown below:

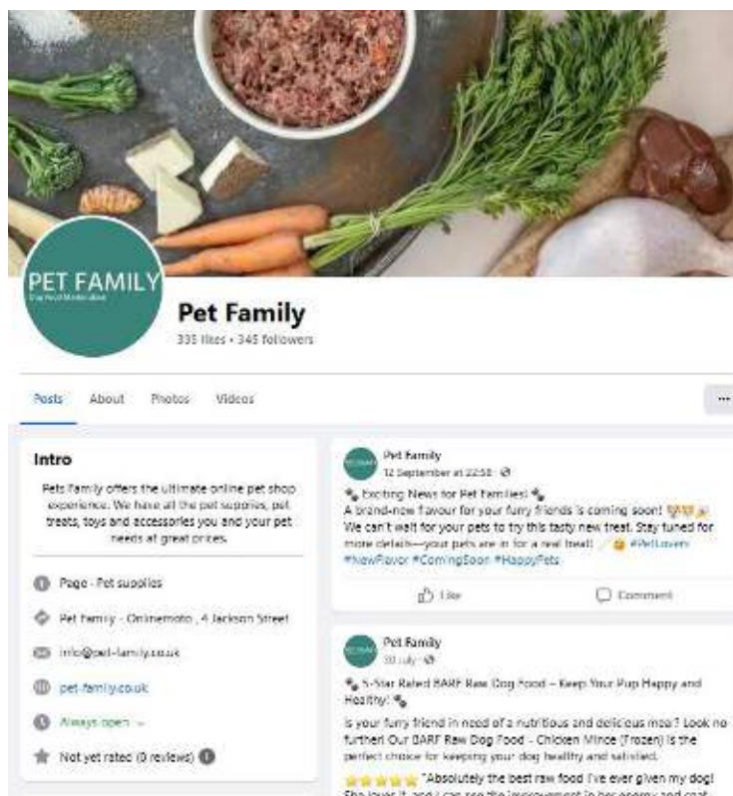


- The proprietor has accrued positive reviews of its raw dog food product, with an average rating of 4.92 out of 5 stars (based on 52 reviews).

¹⁹ It is not clear from Mr Jackson's statement precisely when the proprietor assumed the *Pet Family* name.

- A Google search for “raw dog food” generates a link to the proprietor’s website (among other third parties).

- The proprietor has established an “active” Facebook page under its “Pet Family” name, as shown below, which has 345 followers.



- The remainder of Mr Jackson’s statement goes predominantly to the significance of the applicant’s evidence, specifically whether any goodwill it has amassed resides in “Pet Family” or “Pets Corner”.

The applicant’s evidence in reply

18. In reply, Mr Richmond filed a second witness statement on the applicant’s behalf, which is dated 20 February 2025. Mr Richmond’s statement reiterates the applicant’s position concerning its claim to goodwill, misrepresentation and damage. The statement also responds to some of the points presented in Mr Jackson’s statement, including whether or not the proprietor had an awareness of the applicant at the time

of launching its Pet Family brand. Mr Richmond also acknowledges Mr Jackson's concession insofar as he admits that "The Applicant's turnover and advertising expenditure have built substantial goodwill..."²⁰ (albeit that Mr Jackson goes on to say that the goodwill surrounds "the "Pets Corner" brand, not "Pet Family.") Mr Richmond, however, reinforces that the two are "intrinsically linked".

19. That concludes my summary of the parties' evidence, insofar as I consider it necessary.

Relevant date

20. As the proprietor has not made a claim that it has used the contested mark prior to the date of the application for the contested mark²¹, the relevant date for assessing the applicant's claim under section 5(4)(a) is the filing date of the mark at issue, namely, 6 January 2022.

Goodwill

21. As for establishing a protectable goodwill, the applicant's evidence creates an image of a long-standing, successful business. I consider the applicant's turnover to be significant, exceeding £70million in 2020/21 and £80million in 2021/22, for example. Whilst it is not clear for how long the platforms have been active, the applicant clearly utilises various social media platforms to promote its business and invests significantly into the ongoing advertisement of its products. By way of example, the applicant invested over £400,000 annually between the years 2017/18 and 2022/23. Its evidence shows a collaboration with advertising agency PMW which sought to raise brand awareness and grow the wider profile of the business. The business has also engaged in a number of noteworthy charitable initiatives and in recent years has benefited from third-party investments and funding packages to support its expansion from Investec and HSBC, respectively (albeit the latter after the relevant date). Mr Richmond informs me that the applicant's "Pet Family business" has "become the second largest pet

²⁰ See paragraph 13 of Mr Jackson's statement

²¹ *Advanced Perimeter Systems v Keycorp Limited (MULTISYS)*, BL O-410-11, [43]

supplies and services business in the UK employing over 1,200 staff, with 160 stores nationwide”. On reflection of the evidence as a whole, I am satisfied that the applicant’s business has acquired a degree of goodwill in relation to the retail of pet products.

22. With that all being said, in the present proceedings I am tasked with considering whether the applicant has acquired goodwill in its “PET FAMILY” signs specifically as this is what has been pleaded.²² Whilst the evidence is sufficiently strong to establish goodwill, it is crucial to identify which business name or sign is distinctive of that goodwill. Much of the evidence before me refers to the name by which the applicant’s retail premises are identified; Pets Corner. Photographs of its Pets Corner stores are used predominantly in articles featuring news of the applicant, for example; the advertising report generated by agency PMW refers to its efforts to “raise the profile of Pets Corner” and build “Pets Corner’s reputation”; Pets Corner is used to head various of its social media profiles; Pets Corner is used throughout the applicant’s website, including when referencing its charitable partnerships (“Scampers Natural Pet Store... now part of the Pets Corner family”, for example”).

23. The evidence makes clear that the applicant has traded under its Pets Corner name for significantly longer than its Pet Family sign(s), of which use commenced in 2017. I acknowledge that there is evidence showing use of “Pet Family”; the video on its webpage of the applicant’s history, for example, displays the Pet Family logo (or a variation thereof), and in several of the articles concerning acquisitions or investments, the applicant is referred to as ‘Pet Family’. That said, in the video featured on the applicant’s website in which its logo is featured, the reader is invited to learn more about training “at Pets Corner” and in the archived 2018 webpage showing the figurative sign, underneath it reads “Pets Corner started in 1968...” Whilst many of the aforementioned articles were published after the relevant date, they also seem tailored toward the business-consumer and not necessarily the purchasing public. As *Reckitt & Colman* makes clear, for the purpose of a passing off claim, it is the purchasing public to which I must be mindful. The evidence appears to show that Pets Corner is the sign with which the general public will associate any goodwill belonging to the applicant. An article from Retail Focus in 2023, for example, reads “Pet Family, which operates 150

²² Paragraphs 2 and 3 refer

stores across London and the South East of England under its Pets Corner brand..." (my emphasis). Mr Richmond indicates that "Pet Family" is the name by which the applicant's business is identified by "suppliers and business customers", this seemingly acting as an 'umbrella' undertaking. However, the evidence does not show that this perception is reflective of the experience of the end-consumer or general public who, to my mind, would not typically be inclined to look beyond the Pets Corner brand to identify, for example, a parent undertaking. *Pet Family* would therefore, from their perspective, not be distinctive of any goodwill the applicant has acquired and, as such, there can be no misrepresentation or damage on this basis.

24. I will return, however, to Mr Richmond's contention regarding the applicant's *suppliers and business customers*. In this regard, paragraph 3(170) of *Wadlow*²³ reads as follows:

"The goodwill of a business does not only exist in relation to the sale of goods or the provision of services to the consuming public, whether directly or indirectly through other traders further down the chain of distribution. Several cases acknowledge that a business may have goodwill in its capacity as a purchaser, and of course a newly established business must typically purchase before it can have anything to sell." (my emphasis)

25. Whilst Mr Richmond has claimed that *Pet Family* would be known to the applicant's *business customers and suppliers*, notwithstanding the exhibits showing use of the sign in several articles which I have already cited, the evidence on this point is not persuasive. Instead, the evidence strongly suggests that the applicant's services are provided to the general public rather than to businesses. Of course the applicant, inevitably, must have suppliers in order to effectively function as a retail business. I am willing to accept that it is possible that its suppliers are more likely to be familiar with "Pet Family" as they would naturally be more likely to view the name on internal documentation such as invoices, for example, but I do not have sufficient evidence to support a finding that the name is distinctive amongst these customers. Furthermore, even if I were to have found that the relied-upon sign(s) was distinctive of the applicant

²³ *Wadlow on the Law of Passing-Off 6th Ed.*

from the perspective of its suppliers, I have no explanation from the applicant as to how this would result in damage. The dynamic between the applicant and its suppliers would be such that the applicant would be purchasing goods from the relevant suppliers, not the other way around, so I cannot foresee why there would be a risk of a loss of sales or a loss of control on the applicant's part. In the absence of a clear explanation from the applicant, I cannot find any tangible justification as to why damage would arise.

26. To summarise the above, I do not consider that the general public engaging the services of the applicant would consider either of the relied-upon Pet Family signs to be distinctive of any goodwill associated with its business and, consequently, no misrepresentation or damage can be made out. I have also found the evidence insufficient to support a claim that the applicant's suppliers or business customers specifically find its Pet Family signs distinctive of any established goodwill and, even if the evidence had been stronger on this point, it is difficult to anticipate how this would lead to damage on the applicant's part.

Conclusion

27. The application for a declaration of invalidity has failed. The applicant's mark will, consequently, subject to any successful appeal against my decision, remain registered.

COSTS

28. The proprietor has been successful and is entitled to a contribution towards its costs in line with the scale set out in Tribunal Practice Notice ("TPN") 1 of 2023. In line with that TPN, I award costs to the proprietor as follows:

Preparing a statement and considering the other side's statement: £300

Preparing evidence and considering the other side's evidence: £600

Total: £900

29. I order Pet Family Group Limited to pay onlinemoto Limited the sum of £900. This sum should be paid within twenty-one days of the expiry of the appeal period or, if there is an appeal, within twenty-one days of the conclusion of the appeal proceedings.

Dated this 24th day of November 2025

**Laura Stephens
For the Registrar**