

# Is it more important for your IP to be protected or respected?

*What's in a name? A lot of lawsuits, if easyJet and its parent company's recent exploits are anything to go by - but also, potentially, a loss of brand reputation.*

Temps de lecture : minute

---

7 February 2024

Within the last year, easyGroup, which owns the budget airline, has filed trademark claim after trademark claim in UK courts. In October, an indie music band then-known as Easy Life, was forced to give up the name, believing the band lacked the resources to fight the lawsuit against them.

The David and Goliath clash drew headlines and will do little to inspire empathy for easyJet, who appears to be using their vast resources to crush those with less. To compound this, another target for a lawsuit from easyGroup was easyfundraising, a charity shopping website.

So yes, easyGroup appear to have won the battle over the use of the word “easy” in its suits so far, but at what cost? The brand appears petty - and “a bit mean” as easyfundraising’s chief executive, James Moir, put it. It’s a lesson for any business, particularly startups with goals of growth. At a time when everyone is struggling, this sort of behaviour doesn’t come across well. Reputation-wise, it would have been better to take a bit more time to consider whether taking legal action was actually worth it.

IP infringement is vast in the creative and brand world and requires careful consideration - and legal advice - for every company as it builds its brand. For startups, this means looking ahead to the future: what elements and inspiration are you building your brand on? Could this

become a costly issue later? But also, what sort of brand do you want to be and what ethos will you operate with once you gain success?

Safeguarding trademarks and copyrights is, of course, incredibly important but the question is: where do brands draw the line? Does a band's use of the word "easy" really infringe on easyJet's overall brand? No-one is likely to mistake a small indie band in Camberwell for the budget airline, they're in completely different sectors. Furthermore, Easy Life hadn't used all those other brand cues that are so associated with easyJet: the lowercase, rounded "e" or its particular hue of orange. A brand is about so much more than just a name, that's only one component, visual cues, tone of voice, and customer service all impact how people experience a brand overall. The real problem for Easy Life was that even if they could have eventually won, they couldn't have survived the long and costly legal battle.

So, instead of taking heavy-handed legal action, responding to branding overlaps with humility or humour can be much more powerful tools. When M&S sued Aldi over its Cuthbert the Caterpillar cake's similarity to M&S' Colin the Caterpillar cake, Aldi's humorous response won a lot of public support.

One of the reasons that Aldi's "#freeCuthbert" campaign worked so well was because it fitted in with the supermarket's reputation as a cheap and cheerful - and somewhat cheeky - brand. The problem for easyJet is that suing a small band or a charity website who don't have the same resources does not align with its stated brand values of being "warm and welcoming" and supporting everyday people through its low prices.

Similarly, energy drink giant Monster Energy sued a small online fishkeeping forum Monster FishKeeper in 2012, which wanted to sell logo t-shirts to other fish fanatics. A big corporation suing a small business-owner doesn't really match up to Monster Energy's "rebel" ethos,

although the drink behemoth has since become known as the world's biggest "trademark bully" for its continuous litigations against smaller companies for apparent trademark infringements.

For any brand that undertakes this kind of costly, and frankly mean-spirited, litigation against smaller ones, it means the masks slip a little. It shows that those brand values they espouse, the ones they say they live, that they post on their websites, perhaps don't truly permeate throughout the whole of the company, as they would want customers to believe and that is dangerous to a brand's reputation and future.

Additionally, even with their vast resources, these companies are spending a lot of time and energy on these sorts of cases, time and energy that could be spent improving products or customer service.

In response to the latest news about easyJet's trademark claim, a spokesperson told *The Guardian* that easyGroup "own the right to the 'easy' brand name" and "cannot allow unauthorised third parties to simply use it free, gratis and for nothing. That would be very unfair." But surely, it's unfair that one group has laid claim to all use of the word "easy". If you're going to use a ubiquitous word for your brand's name then you're running a certain risk that others could also use it in some way, and what right do you have over something in such common use?

Of course, protecting your brand assets and identity is important, but the name alone is only one element. Instead, every business - whether a startup on an upward trajectory or an established brand - take a pause. If you're thinking of borrowing even just a small part of a high-profile brand, or you're the high-profile brand in question, is it really going to be worth the damage a legal battle can cause?

*Sally Tarbit is a Director at The Team.*

---

Article by Sally Tarbit