



# Claim Form

IN THE HIGH COURT OF JUSTICE  
CHANCERY DIVISION  
ROYAL COURTS OF JUSTICE

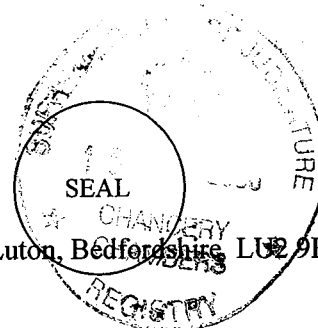
	<i>for court use only</i>
<b>Claim No.</b>	HC08CG2329
<b>Issue Date</b>	15 AUG 2008

**Claimant**

**EASYGROUP IP LICENSING LIMITED** of 12 York Gate, London NW1 4QS

**Defendant**

**EASYJET AIRLINE COMPANY LIMITED** of Hanger 89 London Luton Airport, Luton, Bedfordshire, LU2 9PF



**Brief details of claim**

The Claimant's claim is for:

- 1. - 20. Declarations as set out in the attached Schedule to this Claim Form.
- 21. Further or other relief.
- 22. Costs.

**Value**

This is not a monetary claim.

Defendant's name and address

**EASYJET AIRLINE COMPANY LIMITED**  
 Whose address for service is:  
 Hanger 89, London Luton Airport, Luton, Bedfordshire  
 LU2 9PF

Amount claimed	-
Court fee	400
Solicitor's costs	to be assessed
Total amount	400

Offices within the Royal Courts of Justice, Strand, London WC2A 2LL are open between 10am and 4.30pm Monday to Friday. When sending correspondence, please address to the relevant office (see top right) and quote the claim number.

Claim No.

Does, or will, your claim include any issues under the Human Rights Act 1998?

Yes

No

Particulars of Claim provided herewith.

Statement of Truth

\* The Claimant believes that the facts stated in this claim form are true.

\* I am duly authorised by the claimant to sign this statement

Full name Jane Mutimear

Name of claimant's solicitor's firm Bird & Bird

signed 

Claimant's solicitor

position of office held

Partner

(if signing on behalf of firm or company)

Bird & Bird  
15 Fetter Lane  
London EC4A 1JP  
119 London Chancery

Fax: 020 7415 6111  
Ref: GBH/JMM/EASYG.0001

Claimant's or claimant's solicitor's address to which documents or payments should be sent if different from overleaf including (if appropriate) details of DX, fax or e-mail.

## **Schedule to Claim Form – Declarations:**

### *Income derived from the Core Activity*

1. A declaration that for the purposes of the 75:25 Rule in the Brand Licence the income derived from the Core Activity of the Licensee is confined to that income received by the Licensee in consideration for the transportation of passengers in fixed wing aircraft.

### *Income derived from ancillary and conducive activities*

2. A declaration that income derived from the sale or marketing of goods or services to passengers in the course of transporting them on fixed wing aircraft is derived for the purposes of the 75:25 Rule from those activities, rather than from the Core Activity.
3. A declaration that income derived from the sale or marketing of any goods or services other than the transportation of passengers in fixed wing aircraft is not derived from the Core Activity for the purposes of the 75:25 Rule in the Brand Licence.

### *Ancillary and conducive income to be taken into account for the purposes of applying the 75:25 Rule*

4. A declaration that any and all of the monies received by the Licensor or its sub-licensees in connection with the activities set out in Schedule 1 hereto are to be recognised for the purposes of calculating the income derived from ancillary and conducive activities for the purposes of applying the 75:25 Rule.
5. A declaration that any and all monies received by or on behalf of the Licensee or its sub-licensees in connection with the provision of goods or services in connection with which the Licensee or its sub-licensees have exploited the licensed intellectual property is to be recognised as income for the purposes of applying the 75:25 rule.
6. A declaration that for the purposes of applying the 75:25 Rule the Licensee's sub-licensees include any and all third parties which the Licensee authorises or purports to authorise (or authorises or purports to authorise others to authorise or purport to authorise) to use or exploit any of the Branding.
7. A declaration that any and all monies paid for goods or services in connection with the marketing or provision of which the Licensee or its sub-licensees have exploited the licensed intellectual property is to be recognised as income for the purposes of applying the 75:25 rule.
8. In the alternative to Declaration 7, a declaration that any and all monies received by or on behalf of the Licensee or its sub-licensees in connection with the marketing or provision of goods or services exploiting the licensed intellectual property is to be recognised as income for the purposes of applying the 75:25 rule.

9. In the further alternative to Declarations 7 and 8, a declaration that any and all monies which are received by or on behalf of the Licensee or its sub-licensees in connection with the marketing or provision of goods or services exploiting the licensed intellectual property is to be recognised as income for the purposes of applying the 75:25 rule, save where the Licensee's sub-licensees are exploiting the Branding to effect the sale of the goods or services of third parties on a commission basis, in which case the commission alone shall be recognised for the purposes of calculating the amount referred to in sub-paragraph (b) of the 75:25 rule in and only in those cases where:

- (i) Purchasers or consumers of the goods or services have no recourse in law against the Licensee or its sub-licensees for the condition or quality of the goods or services; and
- (ii) The manner in which the goods or services are marketed is such as to ensure that the purchasers and consumers of such goods or services are made aware that neither the Licensee nor its sub-licensees is responsible for the condition or quality of those goods or services.

*The recognition of income derived from impermissible activities (i.e. not from a Core Activity nor from an activity ancillary and conducive thereto)*

10. A declaration that any income which the Licensee or any other person or persons who or which the Licensee has authorised or purported to authorise, or authorised or purported to authorise its sub-licensees to authorise or purport to authorise, to exploit the EIPR derives from the exploitation of the EIPR (other than that derived from the Core Activity) is to be treated as income derived from ancillary and conducive activities for the purposes of applying the 75:25 Rule, whether or not the activity from which such income was derived was, in fact, an activity ancillary and conducive to the Core Activity the conduct of which is permitted under the provisions of Schedule 4 (c) of the Brand Licence and whether or not the person or persons conducting the activity were properly authorised so to do.

*The Auditor's Certificate*

11. A declaration that it is a material breach of the Brand Licence for the Defendant not to provide the Claimant with an Auditor's certificate in accordance with clause 6.1.17 of the Brand Licence, within 14 days of the annual accounts being announced to the stock market.

*The Peer group Proviso*

12. A declaration that the Licensee is not permitted to engage in any ancillary and conducive activity unless, at the time that such activity is initiated by the Licensee a number of 3 or more such competitors are engaged in that activity.
  
13. A declaration that for the purposes of Schedule 4(c) of the Brand Licence a low cost airline is any airline operating a low cost business model with the following typical principles:
  - (1) A scheduled service offering a single class of travel;
  - (2) High utilisation on a low cost base;
  - (3) Dense, short haul, point to point service;
  - (4) No "frills" offered, such as free onboard service, airport lounges, loyalty programmes;
  - (5) Direct booking over the internet or via call centres;
  - (6) Ticketless travel;
  - (7) No cancellations or refunds;
  - (8) Ancillary revenues supplement earnings from seat sales; and
  - (9) Average fares substantially lower than those offered by regional or national carriers.

*Licensed Activities*

14. A declaration that for an income generating activity to constitute an activity ancillary and conducive to the Core Activity of the Licensee it must satisfy the following necessary (but not sufficient) conditions, that is:
  - (i) The activity is directed exclusively either to passengers transported on fixed wing aircraft (of the Licensee or its sub-licensees) or persons who have purchased (or been purchased) a ticket to be transported on such fixed wing aircraft; and
  
  - (ii) The goods or services which are provided in the course of the activity are to be consumed in the course of such transportation ("the Flight"), (food and beverages), related to the Flight (travel insurance), designed to facilitate the taking of the Flight (airport parking), designed to create the occasion for the Flight (holiday villas) or are otherwise goods or services which are sold in-flight as a matter of airline custom and practice (alcohol and tobacco).

*Non Licensed Activities*

15. A declaration that the following activities are not Licensed Activities:

- (i) The provision of goods or services to members of the public otherwise than in connection with or in the course of the sale or provision of the transportation of passengers in fixed wing aircraft;
- (ii) The provision of customer data to third parties for marketing purposes other than in relation to Licensed Activities.
- (iii) Hosting third party advertising materials on the easyJet website.

*Credit Card*

16. A declaration that any and all amounts due each month by cardholders to CitiFinancial under the credit card scheme using easyJet branded cards and/or paperwork, are to be recognised for the purposes of applying the 75:25 Rule.

*Detrimental uses of the EIPR*

17. A declaration that the sale of scratch cards held out to be in support of a charity, where the actual charitable contribution made is less than 50% is materially detrimental to or inconsistent with the good name, goodwill, reputation and image of the Licensor and/or EIPR.

*The use of the EIPR in combination with other signs*

18. A declaration that use by the Defendant or its sub-licensees of the sign "easyJet" in combination with other signs such as "hotels" and "shop", etc., without the prior written approval of the Claimant, is or would be contrary to the Brand Licence.

19. A declaration that the Claimant may withdraw any consent, which has not been given in writing, signed, and specified as being "irrevocable", for the Defendant to use the sign "easyJet" in combination with any other sign, by the Claimant giving the Defendant 6 months prior written notice of the termination of the consent.

*Supervision of sub-licensees*

20. A declaration that, in breach of clause 6.1.14 of the Brand Licence, the Defendant has failed to vigilantly supervise the performance by Hotelopia S.L. ("Hotelopia") of its obligations under the agreement made between the Defendant and Hotelopia dated 25 October 2004 ("the easyJethotels Agreement") to ensure that, as specified in Schedule 1 paragraph 4 thereto, all easyJet customers are aware that their accommodation contract is with the Hotelopia.