

**IN THE HIGH COURT OF JUSTICE**  
**CHANCERY DIVISION**  
**INTELLECTUAL PROPERTY ENTERPRISE COURT**



**B E T W E E N :**

**(1) A.P.T. TRAINING & CONSULTANCY LIMITED**  
**(2) MR WILLIAM DAVIES**

**Claimants**

**and**

**BIRMINGHAM & SOLIHULL MENTAL HEALTH NHS TRUST**

**Defendant**

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**DEFENCE**

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All paragraph references are to those in the Particulars of Claim unless stated otherwise.

1. Paragraph 1 is admitted.
2. In relation to paragraph 2,
  - 2.1. It is admitted that the Second Claimant is a director of the First Claimant.
  - 2.2. It is denied that the Second Claimant is a 50% shareholder of the First Claimant. It is averred that APT Dower House Limited owns 100% of the issued share capital of the First Claimant.
3. Paragraphs 3 and 4 are admitted.
4. The Defendant is unable to admit or deny paragraphs 5, 6 and 7 as such matters are not within its knowledge. The Claimants are put to proof.



5. Paragraphs 8, 9, 10 and 11 are admitted.

5.1. Since 2009 the Trust has used the word “RAID” as an acronym for “Rapid Assessment Interface and Discharge”.

5.2. The “RAID” system was created as individuals experiencing severe mental health crises and trauma were attending hospitals and not receiving adequate care, which led to increased incidents of suicide, and therefore a new model for patient assessment and discharge was developed to help address the needs of patients in one assessment; patients referred from accident and emergency would be seen within 1 hour and patients admitted onto in-patient wards would be seen within 24 hours.

5.3. The “RAID” Mental Health Team brings together an integrated multidisciplinary team of mental health liaison practitioners specialising in general psychiatry, deliberate self-harm, substance misuse and old age psychiatry so that all patients aged sixteen and above can be assessed, treated, signposted, admitted and/or referred appropriately. This group of multidisciplinary professionals works closely with hospital clinicians and managers to ensure timely assessment is easily accessible to all patients in Birmingham and Solihull presenting with mental health issues and those presenting with substance misuse problems in Solihull.

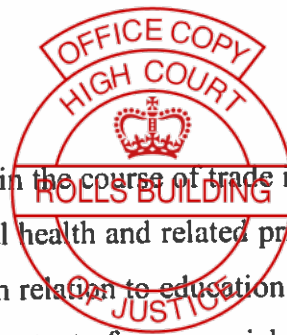
5.4. The word “RAID” is not visible to members of the general public at any of the Defendant’s hospitals.

5.5. Training is provided on an ad hoc and informal basis and is provided internally to staff.

6. Paragraphs 12 and 13 are admitted.

7. For the reasons set out below, paragraph 14 is denied.

8. Paragraph 15 is denied.



8.1. The Defendant has not used the Defendant's Sign in the course of trade in relation to educational and training services relating to mental health and related printed matter. It is averred that the use of the Defendant's Sign in relation to education and training is a private matter and does not take place in the context of commercial activity with a view to economic advantage. Paragraph 5.5 above is repeated.

8.2. It is denied that the Defendant's Sign is identical to the RAID Mark.

8.3. It is denied that the Defendant has used the Defendant's Sign in the course of trade in relation to goods and services identical with the goods and services in respect of which the Registered Trade Marks are registered.

8.4. It is denied that the origin function of the Registered Trade Marks has been or is liable to be adversely affected by the use of the Defendant's Sign.

9. Paragraphs 16 and 17 are denied.

9.1. It is denied that the Defendant's Sign is identical to the RAID Mark.

9.2. It is denied that the Defendant has used the Defendant's Sign in the course of trade in relation to goods and services similar with the goods and services in respect of which the Registered Trade Marks are registered. It is averred that the mental health services provided by the Defendant are not similar to the goods and services in respect of which the Registered Trade Marks are registered, namely educational and training services and printed matter and publications. Paragraph 5.5 above is repeated. Any education and training is wholly ancillary to the services provided by the Trust, namely medical services/healthcare services.

9.3. It is denied that there exists any likelihood of confusion on the part of the relevant public. It is averred that the relevant public is a highly specialised group comprising of those involved in psychiatry/mental health services and that there would be no confusion or likelihood of confusion, including likelihood of association, on the part of reasonably observant and circumspect members of the relevant public.



10. Paragraphs 18 and 19 are denied.

10.1. Paragraph 8.1, 8.2, 8.3, 8.4, 9.2 and 9.3 above are repeated.

10.2. The Defendant is unable to admit or deny that the RAID Mark has a reputation in the UK and the EU as such matters are not within its knowledge. The Claimants are put to proof.

10.3. In the premises, it is denied that the use of the Defendant's Sign is detrimental to the distinctive character and/or repute of the RAID Mark.

11. Paragraph 20 is denied. It is averred that the relevant public is a highly specialised group comprising of those involved in psychiatry/mental health services and that there would be no mistaken belief amongst members of the relevant public that the Defendant's RAID Service is a service of the First Claimant or authorised by or connected with the First Claimant.

12. In relation to paragraph 21,

12.1. The First Claimant has failed to provide any particulars of the damage alleged to have been caused and therefore the Defendant is unable to plead specifically to the damage allegedly suffered.

12.2. Insofar as the Defendant is able to plead to the generality of the allegation, it is denied that the First Claimant has suffered or is likely to suffer any damage as a result of the use of the Defendant's Sign either as alleged or at all. Paragraph 11 above is repeated.

13. In the premises, paragraph 22 is denied.

14. Paragraph 23 is admitted.



15. Paragraph 24 is denied. The Defendant has not infringed the Registered Trade Marks or passed off as alleged and/or the Claimants have not suffered any damage as a result of the use of the Defendant's Sign.

16. In the premises, paragraph 25 is denied.

17. Paragraph 26 is admitted. The Defendant has also complied with the relevant provisions in the Practice Direction on Pre-Action Conduct.

STEVEN REED

STATEMENT OF TRUTH

(I believe) (The Defendant) believes the facts stated in this Defence are true.

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

signed  position or office held

\*(Defendant) (Defendant's solicitor)



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**Claim No: IP-2017-000106**

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