

Decisions of the trimester (GC and CJEU)

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29/11/2016

List of cases:

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C-223/15 – **combit / Commit** (22 September 2016)

Request for a preliminary ruling from Higher Regional Court (Düsseldorf) in Germany.

FACTS:

German company ‘combit Software GmbH’ was the proprietor of the word mark ‘**combit**’ registered in the EU and in Germany for g/s in the computer industry.

Israeli company ‘Commit Business Solutions Ltd’ was selling software under the word mark ‘**Commit**’ through the Internet.

The German company brought an action before the German courts seeking an injunction in the form of court order that Israeli company refrains from using its mark (i) in the EU or, alternatively, (ii) in Germany.

The Regional Court dismissed the principal claim and upheld the alternative claim.

The appeal was brought before the Higher Regional Court arguing that the order should have covered the whole EU.

C-223/15 – **combit / Commit (22 September 2016)**

Higher Regional Court confirmed that:

- there is LOC on the part of DE-speaking public in the EU;
- there is NO LOC on the part of EN-speaking public in the EU (conceptual differences).

However, considering the unitary character of EU trade mark, it was uncertain how the prohibition order should apply in the present case.

Therefore, it stayed the proceeding and referred, in essence, the following question to CJEU:

“Whether Article 1(2), Article 9(1)(b) and Article 102(1) of Regulation No 207/2009 must be interpreted as meaning that, where an EU trade mark court finds that the use of a sign creates a likelihood of confusion with an EU trade mark in one part of the European Union whilst not creating such a likelihood in another part thereof, that court must conclude that there is an infringement of the exclusive right conferred by that trade mark and issue an order prohibiting the use concerned for the entire area of the European Union?” (§ 23).

C-223/15 – **combit / Commit (22 September 2016)**

CJEU:

EU trade mark courts have a jurisdiction to decide on the acts of infringement within the territory of any Member State (§ 24).

When the court finds that because of use there is LOC in one part of the EU and NO LOC in another part, it must conclude that there was infringement of the exclusive right conferred by EU trade mark.

In such case the court must issue an order prohibiting the defendant from proceeding with the acts which infringe the EU trade mark (§ 29).

**Such order must exclude the territories where there is NO LOC (e.g. for linguistic reasons) (§ 31).
Difference from OPPO proceedings.**

Legitimate trade arising from the use of the contested mark in the part of the EU where there is NO LOC cannot be prohibited because there is no infringement of exclusive rights (§ 32).

The part of the EU where there is NO LOC should be identified with precision in the order (§ 34). It is up to the defendant to submit all the relevant proof to the court showing NO LOC.

Such interpretation does not undermine the unitary character of an EU trade mark, as the right of the proprietor to prohibit all use which adversely affects the functions inherent in that mark is preserved (§ 35).

C-223/15 – **combit / Commit (22 September 2016)**

In the case at issue, since there is LOC for DE-speaking public, the exclusive rights conferred by the EU trade mark ‘combit’ have been infringed.

Consequently, following Article 102(1) EUTMR the German court should issue an order prohibiting the Israeli company from proceeding with the acts that infringe the mark in question.

However, since there is NO LOC for EN-speaking public the order must exclude the respective part of the territory of the European Union, which must be identified with precision.

Does it include only the countries where EN is the official language (i.e. the UK, Ireland, Malta) or also those where the knowledge of EN is high (e.g. Scandinavian countries)?

This would be for the Israeli company to prove which part of the EU should be excluded from the order.

T-476/15 – FITNESS (28 September 2016)

FACTS:

20/11/2001: application for EU trade mark for word sign **FITNESS** (Classes 29, 30 and 32).

02/09/2011: invalidity application based on Article 7(1)(b) and (c) EUTMR.

17/03/2014: Cancellation Division rejected the invalidity application.

19/06/2015: BOA dismissed the appeal:

- the evidence produced before the Cancellation Division was not sufficient to prove the descriptiveness of the contested mark;
- some further evidence submitted for the first time before BOA was rejected as belated without taking it into consideration (Rule 50(1) in conjunction with Rule 37(b)(iv) EUTMIR);
- since the term ‘fitness’ had an evocative and ambiguous content (at the time of filing!), it was capable of serving as an identification of commercial origin for the goods concerned.

T-476/15 – FITNESS (28 September 2016)

Article 76(2) EUTMR - Examination of the facts by the Office of its own motion

The Office may disregard facts or evidence which are not submitted in due time by the parties concerned.

Under Article 76(2) EUTMR BOA has a discretion to take into account certain evidence only when it is produced late, which means that BOA cannot refuse to accept the evidence that is not considered as belated.

Rule 37(b)(iv) EUTMIR - Application for revocation or for declaration of invalidity

Application to the Office for revocation or for a declaration of invalidity pursuant to Article 56 of the Regulation shall contain [...] as regards the grounds on which the application is based, [...] an indication of the facts, evidence and arguments presented in support of those grounds

Rule 37(b)(iv) EUTMIR does not imply that any evidence submitted after the filing of the invalidity application, either before the Cancellation Division or before BOA, is to be regarded as belated.

In addition, regulations do not contain any provisions setting a time limit for the production of evidence in relation to an invalidity application based on AG (differently from opposition proceedings, revocation proceedings, invalidity proceedings based on RG).

Therefore, according to Article 76 EUTMR, read in conjunction with Rule 37(b)(iv) EUTMIR, in the invalidity proceedings based on AG the evidence submitted for the first time before BOA cannot be regarded as belated.

T-476/15 – FITNESS (28 September 2016)

Rule 50(1) EUTMIR - Examination of appeals

[...] Where the appeal is directed against a decision of an Opposition Division, the Board shall limit its examination of the appeal to facts and evidence presented within the time limits set in or specified by the Opposition Division in accordance with the Regulation and these Rules, unless the Board considers that additional or supplementary facts and evidence should be taken into account pursuant to Article 76(2) of the Regulation.

Moreover, Rule 50(1) EUTMIR that expressly refers to the appeal proceedings brought against the decision of the Opposition Division does not apply by analogy to appeal proceedings brought against the decisions of the Cancellation Division concerning AG. Such application would run counter to the public interest pursued by Article 7 EUTMR.

Therefore, in the present case BOA incorrectly rejected the evidence produced for the first time by the invalidity applicant during the appeal proceeding because this evidence cannot be regarded as belated.

Since it is not inconceivable that refused evidence might affect the substance of the proceedings, BOA decision must be annulled.

T-512/15 – SUN CALI / CaLi co (22 September 2016)

FACTS:

20/11/2006: application for EU trade mark (Classes 18, 25, 35 and 45)
Proprietor: Sun Cali, Inc. (US company)

16/10/2012: invalidity application by Abercrombie & Fitch Europe SA.
Grounds: Article 8(1)(b) EUTMR
Earlier right: IT trade mark

17/03/2014: Cancellation Division declared EU trade mark invalid, but only for Classes 18 and 25.

03/06/2015: After assessing the appeals brought by both parties BOA issued the following decisions:

- (i) dismissed the appeal brought by Sun Cali, Inc. as inadmissible holding that it was not duly represented before the Office. BOA considered that its alleged German branch cannot be considered as a 'real and effective industrial or commercial establishment' within the meaning of Article 92(2) EUTMR ([R1260/2014-5](#));
- (ii) allowed the appeal brought by Abercrombie & Fitch Europe in respect to Class 35 but dismissed it for Class 45 ([R1281/2014-5](#)).



T-512/15 – SUN CALI / CaLi co (22 September 2016)

GC rejected the evidence submitted by Sun Cali Inc. for the first time before the GC as inadmissible, including provided to substantiate the claim that it was duly represented before BOA (§ 14-17).

Before BOA Sun Cali Inc. was represented by a natural person who at the same time was:

- (i) CEO of Sun Cali Inc.
- (ii) Employee of its alleged commercial establishment in Germany.

Article 92(3) EUTMR - Representation

Natural or legal persons having their domicile, or principle place of business or a real and effective industrial or commercial establishment in European Economic Area may be represented before the Office by an employee. An employee of a legal person to which this paragraph applies may also represent other legal persons which have economic connections with the first legal person [...].

Firstly, Sun Cali Inc. did not prove that it had a real and effective industrial or commercial establishment in the EU. The postal address in Germany, the photographs of a store and the self-authorization are not sufficient to prove the existence of its branch (i.e. extension of a parent body).

Secondly, it was not proven that the establishment in Germany was a separate legal person that had economic connections with Sun Cali Inc.

Abercrombie & Fitch Europe SA produced evidence (i) that there is no establishment registered under the name ‘Sun Cali’ in Germany and (ii) that the alleged employee is registered as a sole trader in Munich.



However, a sole trader may not represent a legal person established outside the EU with which it may have economic connections because it does not have legal personality.

T-512/15 – SUN CALI / CaLi co (22 September 2016)

Likelihood of Confusion (Article 8(1)(b) EUTMR):

EU trade mark invalidated for Classes 18 and 25 by Cancellation Division and for Class 35 by BOA.

GC confirmed the similarity between the contested *'retail store services featuring clothing, shoes and handbags'* in Class 35 and the goods *'Clothing'* and *'shoes'* in Class 25 of the earlier trade mark.

EU trade mark	Earlier IT trade mark
	
Classes: 18, 25, 35, 45	Class: 25

The signs were found to be visually, aurally and conceptually similar to the extent that they coincide in the element 'CALI' that has an average degree of distinctiveness.

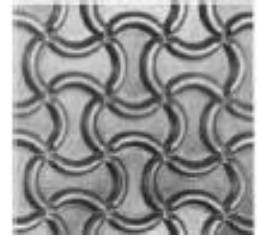
Therefore, given the average level of attention of the relevant public there is LOC between the trade marks.

T-579/14 - Representation of crisscrossing wavy lines (9 November

2016)

FACTS:

IR designating the EU (Classes 10, 18 and 25).



Examiner refused protection in its entirety on the basis of lack of distinctive character (Article 7(1)(b) EUTMR)

BOA dismissed the appeal:

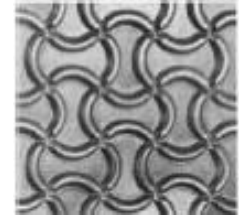
- the sign would be perceived as representing a surface pattern;
- it could be applied on all the goods applied for or/and on their packaging where it would perform a technical or/and aesthetic function;
- the overall impression produced by the sign is banal and thus it does not depart significantly from the standards or usual practices;
- therefore, the sign cannot serve as an indication of commercial origin.

T-579/14 - Representation of crisscrossing wavy lines (9 November 2015)

What is represented by the sign?

Is the sign indissociable from the appearance of the goods?

Does the sign significantly depart from the standard?



GC confirmed that the sign represents a surface pattern.

- the sign is made up of a repetitive sequence of elements (i.e. crisscrossing wavy lines) which can extend infinitely in all four directions and has no contours (§ 35-37);
- the Office may take into account the intrinsic characteristics of the sign in order to examine its nature, including the question whether it is indissociable from the appearance of the goods covered (§ 42);
- the fact that a sign has been designated as a figurative mark does not prevent from finding, on the basis of the practical experience, [...] that it is a surface pattern (§ 43).

GC considered that the sign can be used as a surface pattern on most of the goods applied for or their packaging.

- there is a probability inherent in the sign at issue that it will be used as a surface pattern irrespective of its designation as a figurative mark, 3D mark, etc. (§ 54);
- it is only when the use of a surface pattern is unlikely due to the nature of the goods concerned that such a sign cannot be considered a surface pattern (§ 55);
- the same reasoning applies in the case of use of a surface pattern on the packaging of the goods at issue, except for what is merely transport packaging (§ 67).

T-579/14 - Representation of crisscrossing wavy lines (9 November 2016)

*Class 10: 'Surgical, medical, dental and veterinary apparatus and instruments; **artificial limbs, eyes and teeth**; orthopaedic articles; **suture materials; suture materials for operations**; orthopaedic footwear, including orthopaedic footwear for rehabilitation, foot physiotherapy, therapy and other medical purposes, and parts therefor, including orthopaedic shoes, including orthopaedic shoes with footbeds or with orthopaedic foot supports and foot and shoe inserts, including orthopaedic foot supports and shoe inserts and parts therefor, including in the form of rigid thermoplastic inserts; shoe components and shoe fittings for orthopaedic shoe adaptation, in particular fittings, wedges, pads, inner soles, foam padding, foam pads and moulded shoe soles, including in the form of fully plastic inserts with orthopaedic footbeds of natural cork, thermal cork, plastic, latex or foamed plastic materials, including being elastic compounds of cork latex mixtures or plastic cork mixtures; orthopaedic foot and shoe inserts; orthopaedic foot and shoe supports; orthopaedic footwear, in particular orthopaedic sandals and slippers; orthopaedic insoles, inserts, including inserts of plastic, latex or foamed plastic materials, including being elastic compounds of cork latex mixtures or plastic cork mixtures'.*

*Class 18: 'Leather and imitations of leather, and goods made of these materials and included in this class; **animal skins, hides**; trunks and travelling bags; umbrellas, parasols and walking sticks; whips, harness and saddlery; change purses; bags; handbags; document cases; waist pouches; garment bags for travel; key cases (leatherwear); beauty cases; toilet bags, vanity cases; travelling bags; rucksacks'.*

Class 25: 'Clothing, headgear, footwear...

T-579/14 - Representation of crisscrossing wavy lines (9 November 2016)

The sign does not significantly depart from the standards and usual practices:



- the overall impression produced by the sign remains banal (§ 131);
- the applicant did not provide any evidence to prove that the pattern in question was original and unusual (§ 132).;
- the general experience shows that patterns applied to surfaces are characterised by infinite different designs (§ 133);
- the applicant's argument that it is the only undertaking that uses the sign at issue does not suffice to prove that there is a significant departure by the sign at issue and from the standards and usual practices (§ 140).

Therefore, the sign would be perceived as a simple surface pattern, applied for decorative or technical purposes, and not as an indication of any particular commercial origin.

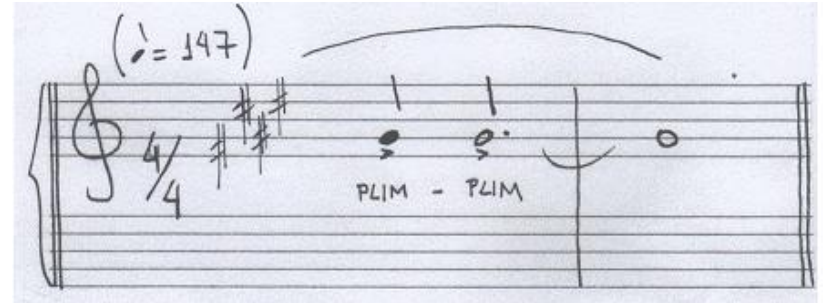
BOA decision was annulled in respect of the goods which were unlikely to contain a surface pattern (also on their packaging) and was confirmed for the remaining goods.

T-408/15 – Sound of a jingle PLIM PLIM (13 September 2016)

FACTS:

EU trade mark application for sound mark

Classes: 9, 38 and 41.



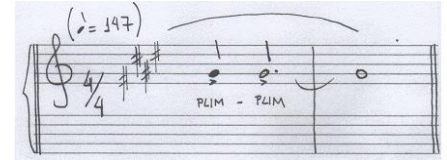
Examiner rejected the mark applied for on the basis of the lack of distinctive character (Article 7(1)(b) EUTMR).

BOA dismissed the appeal as regards the alleged distinctive character and referred back the case for examination of the enhanced distinctiveness claim (Article 7(3) EUTMR).

- the mark consists of the repetition of a sound that resembles a ringtone;
- it is banal and commonplace in every aspect;
- the mark thus would go unnoticed and would not be remembered by consumers;
- therefore, it is devoid of any distinctive character in respect of all g/s.

T-408/15 – Sound of a jingle PLIM PLIM (13 September 2016)

On the obligation to state reasons (Article 75 EUTMR)



In principle, the Office must state reasons for refusing to register a trade mark in relation to each of g/s. However, for a homogeneous category of g/s only the general reasoning can be used.

There is sufficiently direct and specific link between g/s at issue, which are media for the dissemination of information electronically, orally or by means of television.

Class 9: *DVDs and other digital recording media; computer software; applications for tablets and smartphones;*

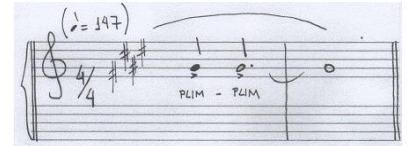
Class 38: *Television broadcasting services;*

Class 41: *Education; providing of training; entertainment; sporting and cultural activities; entertainment services in the form of television programmes; production of television entertainment features; entertainment services, namely television news, educational, sports and comedy programmes, television soaps, television variety shows; production of television programmes; production of online entertainment.*

Therefore, in the present case BOA could give a single conclusion based on the same ground for refusal covering all g/s concerned, without infringing obligation to state reasons (§ 28).

T-408/15 – Sound of a jingle PLIM PLIM (13 September 2016)

On the lack of distinctive character (Article 7(1)(b) EUTMR)



Sounds by nature can serve as indications of origin and may constitute a trade mark, provided that they may also be represented graphically (C-283/01 Shield Mark).

Musical notes on a stave constitute a proper graphical representation.

The criteria for assessing distinctiveness are the same for the various categories of trade marks. However, when applying those criteria, the relevant public's perception is not necessarily the same in relation to each of those categories. Therefore, it may prove more difficult to establish the distinctiveness of the marks in certain categories than of those in other categories (3D torch shape, C-136/02P).

Capacity of a sound to serve as an identification of commercial origin particularly depends on particular g/s. For instance, it is very common in communications and entertainment sectors for consumers to identify g/s by a sound element.

However, a sound sign must have a certain resonance which enables the target consumer to perceive and regard it as a trade mark and not as a functional element or as an indicator without any inherent characteristics. It must have the ability to identify.

T-408/15 – Sound of a jingle PLIM PLIM (13 September 2016)

In the present case, the mark applied for consists of the repetition of a sound which resembles a ringtone (§ 49).




Despite of its description, namely ‘a stave with a treble clef with a tempo of 147 crotchets per minute, repeating two G sharps, namely a first G crotchet with an accent (one beat), followed by a second G (dotted minim) (three beats) tied to a semibreve (four beats)’, **for the public it would be perceived as a simple repetition of two identical notes**.

Excessive simplicity makes the that sign incapable of serving as the identifier of commercial origin. It will go unnoticed and will not be remembered by the relevant public.

In most cases the mark will be perceived by the relevant public as a mere function of g/s, but because of its banality it is basically irrelevant if it is associated with g/s or not.

The mark was correctly refused registration in respect to all g/s applied.

T-565/15 and T-566/15 – MERLIN'S KINDERWELT (20 September 2016)

EU trade mark applications	Earlier IT marks
<p>1) MERLIN'S KINDERWELT</p> <p>2) </p>	<p>1) KINDER</p> <p>2) KINDER</p>
<p>Class: 41 (education, entertainment, amusement parks...)</p>	<p>Classes: 30 (cakes, pastry...) and 41 (education, training....)</p>

Oppositions filed against both EU trade mark applications by Ferrero SpA on the basis of Article 8(1)(b) and 8(5) EUTMR.

Opposition Division rejected the oppositions in both cases.

BOA upheld the appeals and the oppositions by finding LOC in both cases.

- dominant element of both marks applied for is the word 'kinderwelt',
- the element 'Merlin's' of the trade marks applied for is descriptive and thus not distinctive,
- conflicting trade marks are similar as they share the word element 'kinder' in common,
- services in question are identical.

T-565/15 and T-566/15 – MERLIN'S KINDERWELT (20 September 2016)

GC:

Relevant public consists of average Italian consumers who would not understand German.

None of the elements of the trade marks applied for dominates their overall impression or is more distinctive than the other elements:

- Although the element 'Merlin's' will be understood by the relevant public, it cannot be regarded as being descriptive because the link between the meaning of this term and the contested services at issue is not sufficiently direct and specific (i.e. average degree of distinctiveness).
- The element 'kinderwelt' of the trade marks applied for will not be understood by the relevant public in Italy (i.e. average degree of distinctiveness).

T-565/15 and T-566/15 – MERLIN’S KINDERWELT (20 September 2016)

The signs are visually an aurally dissimilar:

- the signs at issue are clearly distinguishable by their length (17 v. 6 letters);
- the element ‘kinder’ in the marks applied for is merged with the element ‘welt’ into harmonious unit and thus is barely distinguishable by the public in question;
- because of its position in the trade marks applied for the element ‘Merlin’s’ will attract consumers’ attention first;
- In addition, the contested figurative mark has graphical elements that will help to distinguish it from the earlier marks.

The signs are not conceptually similar (i.e. conceptual comparison irrelevant):

- neither the word ‘kinder’, nor the word ‘kinderwelt’ will be understood by the Italian public;
- even if the element ‘Merlin’s’ present in the trade marks applied for is evocative, the marks as a whole have no clear concept.

Since the signs are not similar overall the opposition fails on Article 8(1)(b) and 8(5) EUTMR.

BOA decision annulled.

T-693/15 – CLOVER CANYON / CANYON (20 October 2016)

EU trade mark application	Earlier DE mark
CLOVER CANYON	CANYON
Class: 25 (<i>Clothing, namely, tops, bottoms, shirts, pants, sweaters, headwear, shorts, swimwear, lingerie, underwear, jackets, coats, wraps, dresses, skirts, scarves</i>)	Class: 25 (<i>Woven, weft-knitted and warp-knitted clothing</i>)

Opposition filed against EU trade mark application on the basis of Article 8(1)(b) EUTMR.

Opposition Division upheld the opposition and rejected EU trade mark application.

BOA dismissed the appeal:

- goods are identical;
- signs are similar overall;
- common element ‘CANYON’ has a normal degree of distinctiveness;
- LOC.



T-693/15 – CLOVER CANYON / CANYON (20 October 2016)

GC:

Goods are identical and targeted at the general public in Germany with average level of attention.

The signs are visually and aurally similar since the earlier mark is fully included in the trade mark applied for (even it is a second element).

The relevant public in Germany will understand the meaning of the common word element ‘CANYON’ and thus they are conceptually similar. ‘CLOVER’ will be meaningless.

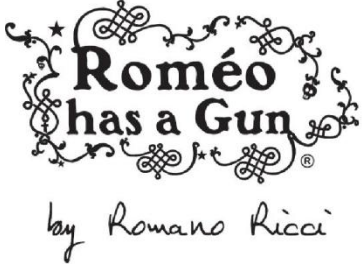
Inherent distinctiveness of the earlier mark ‘CANYON’ is average in respect of the goods in Class 25:

- the public would not associate the word ‘canyon’ with ‘canyoning’ which is an extreme sporting activity practised in canyons;
- single extract from an electronic dictionary (i.e. DUDEN) is not sufficient to prove that the English word ‘canyoning’ would necessarily be recognised by the general public in Germany;
- not all goods in question are intended for sporting activities (e.g. lingerie);
- even assuming that part of the relevant public may be able to associate the word ‘canyon’ with canyoning activities, it was not proved that when faced with the earlier mark, that part of the public would think that the items of clothing designated by it are related to the extreme sporting activity of canyoning.

Because the first element ‘CLOVER’ of the trade mark applied for is not known to the relevant public, it would more easily retain in their minds the subsequent element ‘CLOVER’ whose meaning is known and that has a normal degree of distinctiveness (§ 40).

LOC.

T-358/15 and T-359/15 – Roméo has a gun (15 September 2016)

EU trade mark application	Earlier EU trade marks
	<ol style="list-style-type: none"> 1) RICCI 2) NINA RICCI
Classes: 3, 25 and 35	Classes: 3 and 25

Oppositions filed against the EU trade mark application by (i) 'PUIG France SAS' and (ii) by 'Nina Ricci SARL' on the basis of Article 8(1)(b) and 8(5) EUTMR.

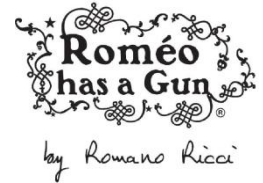
Opposition Division rejected the oppositions in both cases.

BOA upheld the appeals and the oppositions in part on the basis of Article 8(1)(b) EUTMR for the earlier mark 1) and on the basis of Article 8(5) EUTMR for the earlier mark 2).

- conflicting marks are similar overall as they share the word element 'RICCI' in common;
- g/s in question are identical, similar (to various degrees) or dissimilar;
- there is LOC with earlier 'RICCI' mark, but only in respect of identical g/s;
- earlier mark 'NINA RICCI' has reputation and the contested mark will take unfair advantage of and be detrimental to its repute in respect of identical, similar and some dissimilar g/s.

T-358/15 and T-359/15 – Roméo has a gun (15 September 2016)

RICCI v.

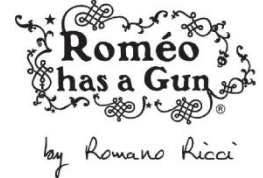


Article 8(1)(b) EUTMR:

- Comparison of g/s must be upheld (N.B. Class 3 lowly similar to Class 25);
- BOA duly took into account all the figurative and word elements of the mark applied for when comparing the signs;
- 'Roméo has a Gun' is not the dominant element of the trade mark applied for because the subsequent element 'by Romano Ricci' has the effect of giving further meaning to the first element of this mark, which confers on it an independent distinctive position;
- The element 'Romano Ricci' will be perceived as the house mark, whilst the element 'Roméo has a Gun' will be perceived as the sign identifying a particular line of g/s;
- The signs are visually and aurally similar to the extent that the earlier mark 'RICCI' is fully included in the independent element 'by Romano Ricci' of the earlier mark;
- The signs are conceptually similar to EN-speaking public who would perceive the mark applied for as containing a reference to the person Romano Ricci and who will perceived the earlier mark as referring to the same surname.
- Under the principle of interdependence there is LOC between the conflicting marks, but only in respect of identical g/s.

T-358/15 and T-359/15 – Roméo has a gun (15 September 2016)

NINA RICCI v.



Article 8(5) EUTMR:

- Earlier mark 'NINA RICCI' enjoys a reputation for '*Perfumery, in particular [...]; cosmetics*' in Class 3 and '*Clothing*' in Class 25.
- The signs are 'slightly similar' overall, namely because of the common element 'RICCI'.
- There is a link between the two marks, in particular due to reputation of the earlier mark and because there is a degree of synergy between '*cosmetics, perfumes, clothing, footwear and accessories*', which are all sold under the same mark by prestige fashion houses from their own retail stores.
- The trade mark applied for could take unfair advantage of the reputation of the earlier mark 'NINA RICCI' (in respect of identical, similar and complementary goods) because apart from the reproduction of the family name 'Ricci' both marks convey floral and romantic concepts.
- GC considered unnecessary to assess if the use of the trade mark applied for would be detrimental to the repute of the earlier mark 'NINA RICCI' (BOA - the message conveyed by '*a man with a gun*' would clearly be incompatible with the classical image and notions of femininity, sweetness, nature and happiness of the earlier mark).
- Even if Mr. Romano Ricci was a direct descendent of Ms Nina Ricci and the legal representative and founder of the applicant it would not constitute due cause for using the trade mark applied for as there is no unconditional right to register a name as EU trade mark.



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Thank you