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Young (IP) love: why and how IP matters for youth

By *Eleonora Rosati*

In ancient Greek mythology, the goddess of youth and the youngest of all divinities was Hebe. The daughter of Zeus and Hera, Hebe was the cupbearer for the goddesses and gods. She served them with ambrosia which, in turn, conferred longevity or even immortality on those who consumed it.

Like the divinities of Mount Olympus, intellectual property (IP) is constantly being fed by younger generations of designers, creators, and inventors. It is therefore particularly relevant that 2022 is the [European Year of Youth](#) and that this year's [World Intellectual Property Day](#) (26 April 2022) focused on 'IP and Youth Innovating for a Better Future' and explores how innovative, energetic and creative minds are driving positive change.

Youth as makers of IP

Throughout the history of IP, young designers, creators, and inventors have always existed.

In the design field, just think of a fashion giant like Yves Saint Laurent, who found himself appointed head designer of the House of Dior at the age of

21, or an industrial design pioneer like Dieter Rams, who became chief design officer of Braun at 29.

If we turn to the arts, Mary Shelley, finalised her most famous novel, Frankenstein, when she was 18 and published it at 20; a landmark voice of American poetry like Sylvia Plath completed all her literary work before her death at the age of 31; Jean-Michel Basquiat, who died at 27, rose to success when he was not even 20; the oldest member of rock band sensation, Måneskin, that won both the Sanremo Music Festival in Italy and the Eurovision Song Contest in 2021, was born in 1999.

In the technical field, in 1843 Ada Lovelace published what is regarded as the first computer programme when she was 28; Ernő Rubik developed the eponymous Cube (an object well-known to [trade mark lawyers!](#)) at the age of 30.

The registration of IP rights has also played a pivotal role in protecting ingenious innovations and ideas. Christian Louboutin, for example, created his iconic red sole when he was 30. After seeing a girl applying red polish to her nails, he had the idea of using it on the sole of his shoes. Today the red sole is a [registered trade mark](#) and has also been at the centre of [important case law](#).

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Youth as consumers and users of IP... both lawfully and unlawfully

Younger generations are of course also keen consumers and users of IP and IP-based services. The fast-rising popularity of social media like TikTok among younger Millennials and Generation Z is testimony to this. So is the fact that most users of streaming services like Spotify and Netflix are under the age of 40.

This said, younger generations are also more exposed to the consumption of unlawful content and the purchase of counterfeits. A [recent study](#) published by the EUIPO reveals that there is a positive association between the proportion of young people (aged 15 to 24) in a country's population and the extent of film piracy.

This is not surprising, also considering that a [2020 survey](#) of European citizens regarding IP perception, awareness, and behaviour indicates that disapproval of purchasing counterfeits varies among age groups: young people (under 24 years old) are more likely to agree with justifications for purchasing counterfeit goods.

The importance of IP awareness and education

In light of the above, it is therefore clear that creating and enhancing awareness of IP among younger age groups is of paramount importance.

The EUIPO plays a substantial part in this through a diverse range of initiatives, including [traineeships](#) offered in cooperation with several universities across Europe and [Virtual School Visits](#) developed under the umbrella of the [EUIPO Virtual Campus Programme](#). The [Virtual Campus programme](#) allows school classes to follow a virtual learning journey to learn about the EU, the importance of IP, and the activities of the Office. The EUIPO also runs a [grant scheme](#) aimed at raising awareness of IP and its importance among the younger generations.

Besides providing several learning resources and IP courses on its [Academy Learning Portal](#), the Office has set up a [network of experts \(IP in Education\)](#) from the education ministries of the EU Member States and representatives from national IP offices as well as other key stakeholders. The key objective of the network is to discuss and create common approaches to IP in educational activities. The IP in Education programme has resulted, among other things, in the development of teaching materials and courses on IP.

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Last but not least, the EUIPO also runs the [DesignEurope Awards](#) (DEA), which celebrate excellence in design and design management among registered Community design holders. Among the 2021 finalists there were also young designers like [Carolin Kunert](#), founder of Knister Grill, who was also featured in the Forbes '30 Under 30' 2020 list.

Young (IP) love: the way forward

Hebe was the most revered by goddesses and gods because of her power to keep them eternally young. Younger generations should be also held to account in terms of IP: young designers, creators, and inventors are responsible for some of the most innovative advancements and ideas; young audiences drive the development and emergence of cutting-edge content and products, as well as new ways to access them. Empirical studies, however, also suggest that younger users and consumers may be less aware than older generations of the importance of IP and the lawful consumption of content and goods. As such, dedicated education and awareness building efforts are particularly important.

In conclusion: cheers to the young and happy World IP Day to everyone, young and ... less young!

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World IP Day 2022



Every 26 April we celebrate World Intellectual Property Day to raise awareness about the role of intellectual property in the economy and society. This year's theme focused on 'IP and Youth: Innovating for a Better Future' and explored how these innovative, energetic and creative minds are driving positive change.

The EUIPO celebrated this day with the entire global IP community. Together with the European Patent Office (EPO) and an average of 35 national IP Offices, we promoted the importance of IP at a national and European level. This year we produced a [video](#) and created a special [section](#) to gather all our initiatives for youngsters available in Europe.

Moreover, [TM5](#) (composed of CNIPA, JPO, KIPO, USPTO and the EUIPO) reaffirmed their efforts to promote trade mark systems in collaboration with the World Intellectual Property Organization, and [recognised the importance of younger generations](#) – who will carry this progress into the future.

World IP 2022 recognised the huge potential of young people to find new and better solutions that encourage the transition to a sustainable future. It was also an opportunity for youngsters to find out how IP rights can support their goals, help make their ideas a reality, generate income, create jobs and make a positive impact on the world around them. With IP rights, young people have access to some of the key tools they need to create a path for reaching their goals and achieving their aspirations.

GIs: New proposal to protect craft and industrial products



The EUIPO will be in charge of evaluating and approving Geographical Indication (GI) applications.

On April 13, the European Commission presented the **first ever EU framework to protect the intellectual property of European craft and industrial products**. The framework will cover products such as Murano glass, Donegal tweed,

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Porcelaine de Limoges, Solingen cutlery and Boleslawiec pottery – in other words, products that rely on the originality and authenticity of traditional practices from their regions.

The proposal draws on the success of the [geographical indication system for agri-products](#) and will help producers better protect, in Europe and beyond, their craft and industrial products as well as their traditional know-how. The regulation will help consumers recognise the quality of such products and make better informed decisions, notably through an EU quality label.

How will the EUIPO be involved?

The EUIPO and Member States' designated authorities will play a key role in the system proposed by the European Commission.

The new scheme will enable a simple and cost-efficient registration of GIs by establishing a two-level application process. This will require producers to file their GI applications to designated Member States' authorities, who will then submit successful applications for further evaluation and approval to the EUIPO.

A direct application procedure to the EUIPO will also be possible for Member States that do not have a national evaluation procedure in place.

Background

For the first time, craft and industrial products will benefit from geographical indications as an intellectual property right at EU level. It will therefore allow full compatibility with international GI protection by enabling producers to protect their products in all countries that are signatories of the [Geneva Act on Appellations of Origin and Geographical Indications](#) under the World Intellectual Property Organisation (WIPO).

Finally, it supports the development of Europe's rural economies and regions by providing incentives for producers, especially small businesses, to invest into new authentic products and create niche markets.

This regulation proposal follows the European Commission's [Intellectual Property Action Plan](#) adopted in November 2020, in which it announced that it would consider the feasibility of a GI protection system for craft and industrial products at EU level.

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The EUIPO at the TM5 and INTA meetings



An EUIPO delegation, headed by the Institutional and Cooperation Department Director, Sandris Laganovskis, travelled to Washington D.C. to participate in the TM5 Mid-term Meeting (28-29 April) and INTA's Annual Meetings (30 April-4 May).

A dynamic actor in the international IP landscape, the EUIPO was in charge of organising this year's TM5 gathering, as it is the group's 2022 host, in line with the TM5's rotating presidency.

The [TM5 group](#), which is celebrating its 10th anniversary this year, encompasses the five biggest IP offices in the world: the Korean Intellectual Property Office (KIPO), the Japan Patent Office (JPO), the China National Intellectual Property Administration (CNIPA) and the United States Patent and Trademark Office (USPTO), along with the EUIPO. At INTA's Annual Meeting, the partner offices organised a user session on their latest

developments and communication activities, as well as a joint workshop on recent changes to their laws and guidelines.

The TM5 Mid-term Meeting

All five members attended on 28-29 April, along with the World Intellectual Property Organization (WIPO), who participated as an observer.

The main objective of the meeting was to take stock of the group's 16 collaborative projects in the field of trade marks, which range from raising awareness about trade mark infringement, to driving the development of image search systems for figurative trade marks.

Attendees also discussed preparations for the TM5's Annual Meeting, scheduled for 24-26 October in Brussels, and the possibility of a temporary exchange of staff between the participating offices.

2022 INTA Annual Meeting

From 30 April to 4 May, the EUIPO delegation is also participating in the [144th INTA Annual Meeting](#), joining the most influential brand professionals from across the globe and across industries at the largest gathering of its kind.

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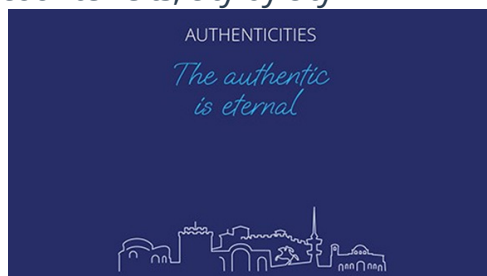
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The EUIPO's delegation is meeting with international IP partners, including user associations and non-EU countries, as well as INTA Committee members and other participants, to discuss the most relevant topics for INTA registrants.

During the event, the delegation will have the opportunity to present the EUIPO's activities under its [Strategic Plan 2025](#). In particular, they will highlight the Plan's main objective: to make IP protection more relevant, accessible and enforceable for businesses, including SMEs, while also supporting EU-related IP policies globally.

Authenticities: helping fight counterfeits, city by city



The European Network of Authenticities strengthened its ties in Thessaloniki. On 4 April 2020, the six EU cities that are part of the Authenticities network met in Thessaloniki to discuss the state of play of the network, ongoing actions and what lays ahead.

Since its inception in 2020, this is the first time the 'Authenticities' have met. The meeting brought together representatives from national IP offices, stakeholders from EU countries involved in the initiative, and member cities. Together, they confirmed their commitment to the Authenticity Network and to ensuring that it continues to grow, into the future.

There are currently six cities, from around Europe, who are certified as Authenticities [Thessaloniki \(Greece\)](#), [Mykonos \(Greece\)](#), [Sofia](#) and [Plovdiv \(Bulgaria\)](#), [Banská Bystrica \(Slovakia\)](#) and [Madrid \(Spain\)](#). These cities organise events and campaigns all year round to highlight the dangers of counterfeit goods, provide training sessions for local enforcement authorities and awareness campaigns aimed at the general public, and businesses.

Authenticities are specifically designed to empower authorities at a local level to engage citizens and other stakeholders in this fight with the aim to increase IP awareness at a local level and enhance the protection of IP rights.

Simply put, the network helps ensure that the certified Authenticities can remain healthier, wealthier, safer and more respectful of the environment.

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Recently, Madrid became the first Spanish Authenticity. Under the [European Cooperation Project](#) 'European Network of Authenticities', the Spanish Patent and Trademark Office (SPTO) and the municipality of Madrid, held its project kick-off media event on 4 March 2022.

EUIPN Annual Cooperation Meeting 2022



On 5-6 April 2022, the European Union Intellectual Property Network (EUIPN) Annual Cooperation Meeting took place in Thessaloniki, Greece. More than 50 participants from the Member States Intellectual Property Offices and the Benelux Office for Intellectual Property attended the meeting.

The EUIPN Annual Cooperation Meeting is the forum where the EUIPO, the Member States Intellectual Property Offices and the Benelux Office for Intellectual Property meet to discuss, exchange

and jointly identify how to best implement the European Cooperation Projects. They do this within the existing strategic framework in line with the priorities of each IP Office. The aim of this cooperation is to strive towards benefitting the users of the IP system.

During the meetings, participants discussed strategic aspects of cooperation, such as how to best face the upcoming future challenges, the latest achievements of the network, including the milestone of [1,000 implementations](#) of common tools and practices, and how to better support SMEs.

Latest cooperation updates

Here is a rundown of other events and milestones in the EUIPO's European and international cooperation projects:

- The Lithuanian IP office implemented the [Robotic Process Automation \(RPA\)](#) solution, which aims to reduce examination time and increase work efficiency.
- The EUIPO and NIPO held a [Technical Cooperation Workshop](#) on new technologies and tools, including blockchain and AI, Front Office solutions and IT security.
- The Observatory's Impact of Technology Expert Group held a [workshop on Quantum computing](#) and its impact on the infringement and enforcement of IP.

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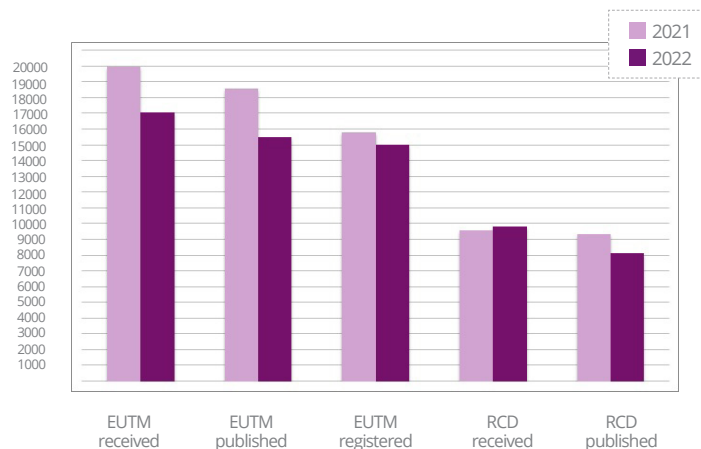
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Monthly statistical highlights March*	2021	2022
European Union Trade Mark applications received	19 970	17 077
European Union Trade Mark applications published	18 551	15 517
European Union Trade Marks registered (certificates issued)	15 797	15 008
Registered Community Designs received	9 548	9 807
Registered Community Designs published	9 302	8 112



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Extension of time limits – Ukraine



A new extension has been granted for all parties in proceedings before the Office having their residence or registered office in Ukraine.

The [two-month extension](#) published on March 30 extends all time limits expiring between 1 April 2022 and 1 June 2022, inclusive, until 2 June 2022. This extension follows Decision 22-2 of the Executive director, which already extended all time limits expiring between 24 February 2022 and 31 March 2022 inclusive until 1 April 2022.

On March 9, the EUIPO, in collaboration with the EU institutions, announced a [number of measures](#) in response to the military aggression carried out by the Russian Federation against Ukraine.

The EUIPO will continue to review the need for further extensions and additional measures as we move forward.

[Read the decision](#)



Filings, applications, quality and customer service: 2021 in review



The EUIPO forecasts the demand and supply of European Union Trade Marks (EUTMs), Registered Community Designs (RCDs), and associated Office products and services, by identifying and assessing the main risk existing in the complex and volatile global macroeconomic and geopolitical ecosystem in which the EUIPO operates. In 2021, this was further accentuated by the COVID-19.

2021 was a year of record growth and expansion while volatility remained high. Against this continued backdrop of uncertainty during this crisis, the Office shifted from a reactive and containment mode back to a forward-looking approach. While IP rights gain popularity with businesses, demand continued to evolve, with large fluctuations in the numbers of applications. There was an overall strong upward trend for EU trade marks, and a steadier more recent rate of growth for designs.

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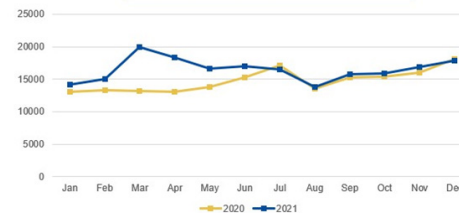


EUTM filings in 2021

In 2021, the EUIPO received a total of 197 898 EUTM filings (165 922 direct filings and 31 976 international registration (IR) filings through the [WIPO Madrid System](#)). During the first semester of 2021 alone, the Office received a record 101 042 EUTMs, an increase of approximately 24 % compared with the same period in 2020 (demand was particularly high in March, reaching an all-time monthly record with close to 20 000 EUTMs received). Coinciding with the overall increase in filings, the use of [EUTM Fast Track](#) also grew substantially, reaching almost half of all filings and standing at 47.95 %.

Second semester results however reflected a more constant growth rate of close to 1.5 % compared with the same semester in 2020. Though the Office's final figures were not as high as estimated midyear, it is no less true that the EUIPO closed 2021 with a higher growth rate in all filings (+11.67 %) than during the same period in 2020 (+10.24 %); mainly attributed to the increase in International Registrations (IRs +17.09 %). This was a growth rate that, although lower than estimated, still reflects a record increase in terms of results.

2021 vs 2020 OVERALL MONTHLY EUTM FILINGS



Designs applications in 2021

With regard to Designs, after a relatively sluggish start in 2021 following the overwhelming number of design applications at the end of 2020 (Brexit deadline), RCD direct filings experienced growth when compared to 2020. A total of 115 563 RCD filings were received, which included 100 975 direct filings and 14 588 international designs via the [WIPO Hague System](#). An increase of 4.18 % was reported in the total number of examined RCDs, reaching 103 904 designs.

Quality at the EUIPO

The Office rose to the challenges of 2021 thanks to the dedication and professionalism of its examiners, successfully handling ever increasing numbers of filings (especially International Registrations) while also increasing Absolute Grounds (AG) examination capacity through the additional training of staff.

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By the end of 2021, the EUIPO had attained a 93.1 % level of achievement in its Quality [Service Charter](#) objectives, with a level of commitment in terms of quality of the decisions, which was successfully met in all cases.

Achieving positive performance results in all EUTM and RCD operations over an extended period of time has allowed the Office to become more demanding, adding new KPIs to the Customer Service Charter on timeliness while defining several actions to reduce the time to respond to customers' communications for all inter partes proceedings (EUTM [opposition](#) and [cancellation](#) as well as RCD invalidities).

In a year characterised by an unprecedented increase in the number of filings, the Office has not only met its objectives, but demanded more of itself as it strived for excellence.

Practice tip: 'Sale of' won't suffice

A recent change of practice means that 'sale of...' is insufficient to describe services in Class 35.

In line with the updated Explanatory Note to Class 35 of the Nice Classification, the term 'sale of...' is not sufficiently clear and precise to identify services in trade mark applications. There are many ways

of selling goods, and it is this **form of selling** that should be specified in order for the terms to be acceptable for classification.

How does this affect applications?

Trade mark applications for 'sale of (e.g. clothing)' in Class 35 will now be objected to. It is paramount that trade mark applicants **be clear and precise** when defining these services so as to ensure that their application conforms to this practice. **'Retail/wholesale services** in relation to (clothing)' would, for instance, be precise enough.

This requirement for extra specificity will make it easier for trade mark owners to ensure protection, whether for goods alone or also for related services. The distinction might become crucial once genuine use of the trade mark needs to be proved.

For more information, please see the Explanatory Note to [Class 35](#) of the Nice Classification.

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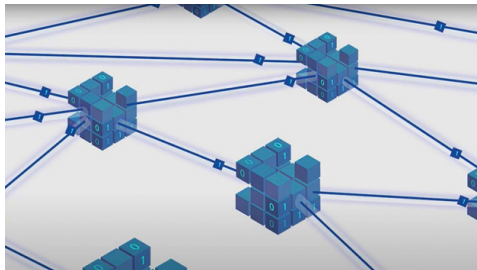
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Estonia joins the IP Register in Blockchain



Progress continues in one of the most exciting and innovative areas of technology: Blockchain. Several months after the Maltese Commerce Department joined the [IP Register in Blockchain](#), another office has joined the network: the **Estonian Patent Office**.

The Estonian Patent Office joined the initiative in February 2022, in the framework of the Blockchain IP Register project carried out by the EUIPO. The Estonian Patent Office, together with the Maltese Commerce Department and the EUIPO, are now connected through the blockchain. The three offices can now connect to [TMview](#) and [DesignView](#) through the blockchain with near real-time data transfer speeds.



Christian Archambeau, Executive Director of the EUIPO, said:

"We are extremely pleased to welcome Estonia as an early adopter of the IP Register in Blockchain. This cutting-edge technology allows for the development of a strong distributed platform providing a secure, fast and direct connection, where data on IP rights can be tracked, traced, and therefore fully trusted. We look forward to moving together towards a further expansion of the IP Register in Blockchain."

Margus Viher, Director General of the Estonian Patent Office, also commented:

"Keeping up with extremely high expectations of our users of the IP system regarding the new technologies and technical level has been a challenge for the Estonian Patent Office. Cooperation with the EUIPO has enabled us to meet these high expectations and deliver professional high-level services supported by modern technical solutions and we have been honoured to be one of the piloting national offices for so many projects."

The IP Register in Blockchain lays the foundation for a strong distributed platform enabling services that benefit from secure, fast and direct connectivity between IP offices and rights holders. Blockchain makes data on IP rights readily available so that changes to those rights can be tracked. Thanks to smart contracts, interaction between parties will be faster and more harmonised.

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The expansion of the IP Register in Blockchain has been a significant technical achievement. Together, the participating offices will help shape and enable the future of blockchain-powered intellectual property services.

In 2022 the network will be expanding even further and new services will be coming online. Stay tuned!

'DigComp' includes IP competences for the first time



The Digital Competence Framework for Citizens contains for the first time IP competences. The European Commission's Joint Research Centre has published the updated [Digital Competence Framework for Citizens \(DigComp\)](#).



The new DigComp 2.2. provides over 250 examples of knowledge, skills and attitudes that help citizens engage confidently, critically and safely with digital technologies. New and emerging technologies such as systems driven by artificial intelligence (AI) are also included in DigComp 2.2.

The EUIPO's [IP in Education project](#) collaborated with experts from the Joint Research Centre in the creation **of IP-related competences**, especially regarding **how copyright and licences apply to digital information and content**. As an example of good collaboration, there is a link from the copyright competence to the EUIPO's [FAQs on copyright for teachers](#).

This is an important step forward for the IP communities as DigComp is an EU-wide framework for developing and measuring digital competences. It can play a central role in achieving ambitious EU objectives, such as reaching a minimum of 80 % of the population with basic digital skills by 2030.

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IP in the age of internet



Further to the previous articles ranging from the Ancient Age to the 20th century and the challenges of technology, we continue to delve into the history of Intellectual Property (IP). This series of articles, each focused on a specific period of time, takes a close look at the lengths taken to protect what we now call Intellectual Property.

The history of intellectual property is closely interlinked with that of technology. Among the innovations that have disrupted our daily lives in the broadest sense – from how we keep in touch with others to how we shop, from how we meet our romantic partners to how we work and study – the emergence of the internet is likely to be regarded as the most relevant one. Naturally, IP has also been affected by and has sought to react to the novel issues that this new medium has been raising. Let's go over some of them then!



Copyright ... trapped in the net?

Starting with copyright, the arrival of the internet has facilitated the dissemination and consumption of protected content, both lawfully and unlawfully. Among other things, consumers have been moving away from the idea of having to rely on TV and vinyl, CDs and VHS cassettes to enjoy content like music and films. Instead, reports confirm that on-demand internet streaming – as opposed to the use and ownership of physical supports or TV – has been on the rise over the past few years in several creative industries, including [music](#) and [film](#).

In turn, courts like the Court of Justice of the European Union (CJEU) have had to answer several questions, including:

- Can one download or stream illegal content without the fear of legal consequences? The CJEU answered 'no' to both [illegal downloads](#) and [streaming](#), finding that available copyright exceptions would not cover these situations.
- Can the operator of an internet platform be directly infringing copyright? The CJEU has said 'yes' in relation to the (in)famous [Pirate Bay](#) but was more cautious with regard to [YouTube](#). This said, following a recent [reform](#) of EU copyright, YouTube now needs to have copyright owners' authorization to make available content uploaded by users.

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• Can the provision of an internet link to protected content infringe copyright? The CJEU has had to answer this question [several times](#), always moving from the assumption that, yes, even the provision of an internet link may well fall within the scope of copyright protection.

The other IP rights: not easier questions!

Things have also been challenging for the other IP rights. Think, for example, of patents and design rights. Protection under either regime is only possible when, respectively, an invention or design is not already part of the 'state of the art'. This concept refers to information that needs to be evaluated to decide whether an invention or design is novel and, therefore, protectable. Should information retrieved from the internet be part of the state of the art? The answer is 'yes' for both, and that is so even if such information is not indexed by search engines!

Still on the patent front, innovations stemming from the internet, such as the Internet of Things, have also been resulting in [several patent applications](#).

Think then about websites and apps and the interfaces that allow us to 'interact' with them. Are graphic user interfaces (GUIs) protectable under IP law? Indeed, they are: both design and copyright protection is available in principle to GUIs.

IP protection online

The internet has also raised issues regarding how to guarantee the effective protection of IP rights online. To this end, internet intermediaries – ranging from internet access providers to social media platforms, from payment providers to search engines – have been increasingly involved in the protection of IP rights on the internet.

Domain names also deserve a special mention. Did you know that they can play a role in ensuring protection of IP rights online? Indeed, information about who is responsible for domain names is [publicly available](#) to allow, among other things, enforcement of trade mark rights. In addition, at certain conditions and among other things, the owner of a trade mark has the right to prevent others from registering and using domain names that may mislead consumers into thinking that there is a connection between the resulting website and the trade mark owner.

From the internet to... the future

In conclusion, the emergence of the internet and then its rapid expansion into all aspects of both personal and professional life has profoundly changed how society works and, with that, raised new questions, some of which still remain without a clear-cut answer. For example, can a platform like Amazon be liable for the sale, by third parties,

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of counterfeits through its platform? The CJEU will need to answer [this question](#) over the next few months.

In all this, policy- and law-makers have also been reflecting on whether new rules are needed. At the EU level, the discussion around the forthcoming [Digital Services Act](#), a new regulation that will impose detailed rules and obligations on online services that will be also relevant to IP owners and users, has been progressing at full speed since the European Commission unveiled its proposal nearly a year ago.

ACADEMY webinars

Latest webinars

Webinar: 2022 Edition of the EUIPO Guidelines: Q&A live session

The EUIPO's current trade mark and design practice is reflected in a series of [Guidelines for examination](#) that are intended to help both our users and our staff in charge of the various procedures. The latest edition of the examination Guidelines for EU trade marks (EUTMs) and registered Community Designs (RCDs) [entered into force on 31 March 2022](#).



As a follow-up to the webinars on the [2022 Edition of the EUIPO Guidelines](#) streamed on 22 March 2022, the EUIPO experts also discussed the Guidelines in depth through a Q&A live session.

Watch the webinar

Webinar: IP and sustainable economy: the potential of IPRs in driving green fashion. World IP Day Youth and Sustainability. Webinar in collaboration with EPO

This year, the [World Intellectual Property Day 2022](#) focused on IP and Youth innovating for a better future. These energetic and creative minds are driving sustainable change in the fashion industry through innovative start-ups which thrive their products to be sustainable and respectful of the environment and to be perceived as such.

In this webinar both the EUIPO and EPO focus on the fashion industry and discuss how intellectual property rights encourage innovation and creativity and how the tools of the IP system – trade marks, design rights, patents, geographical indications and more – can support these ambitions for a greener fashion industry.

From acting as watchdog against deceptiveness and 'greenwashing' to assisting the customers in the obtention of EU certification trade marks, sustainable designs or European patents, the offices address their experience on the growing interest



in sustainability and fashion goods and services, patentable inventions regarding new processes of recycling, innovative materials and new technologies used in the textile industry.

Watch the webinar

Upcoming webinars

Webinar: The good and bad side of drugs: accepted principles of morality under Article 7(1) (f) EUTMR.

[Tuesday, 10 May 2022](#), 10.00 AM – 11.00 AM (CEST)

Webinar: Misleading invoices: How Europol and the EUIPO fight crime?

[Tuesday, 24 May 2022](#), 10.00 AM – 11:00 AM (CEST)

On recent case-law

In [T 806/19](#), Andorra, the General Court confirmed the descriptive character of the trade mark Andorra for several goods and services. The judgment shows how difficult it can be to obtain registration of geographical names.

If you are interested in how the assessment of trade marks consisting of geographical terms is covered by the EUIPO, take a look at the [Webinar: Geographical names pursuant to article 7\(1\)\(c\) EUTMR \(Advanced level\) \(with certificate\)](#) in the Academy Learning Portal.

Take advantage of our online learning offer in the [EUIPO Academy Learning Portal](#).

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Case-law comment: What happens in Andorra...

By **André Pohlmann**, Member of the Boards of Appeal

This article reflects the views and opinions of the author, and not the position of the EUIPO.

What happens in Andorra... impacts this General Court decision regarding descriptiveness.

23/02/2022, T 806/19, Govern d'Andorra v EUIPO (Andorra), EU:T:2022:87

Andorra

On 5 June 2017, the government of the Principality of Andorra filed the above figurative mark as an EUTM application for a wide range of goods and services, among them photographs; tobacco; financial and real estate services; travel arrangements; publication services; services relating to education, sports and culture; and beauty treatments. The mark was refused by the examiner for the goods and services listed above. The Second Board of Appeal dismissed the appeal. In particular, the Board of Appeal confirmed that the relevant public would

perceive the sign as designating the geographical origin of the goods and services in question or the place where the services are provided. Therefore, the sign was purely descriptive for all the goods and services at issue in the context of Article 7(1)(c). The General Court dismissed the action.

The judgment

Here, the relevant public for assessing Article 7(1)(c) EUTMR is the Spanish-speaking consumers of the European Union, including the general public and professionals, with a medium to high degree of attention. As regards photographs, the word 'Andorra' describes their content and geographical origin since it indicates that the photographs contain images of Andorra. The relevant public also perceives 'Andorra' as a direct reference to tobacco, which is marketed in Andorra under advantageous customs provisions, and is therefore capable of designating the geographical origin of that product. The relevant public is aware of the tax advantages in the Principality of Andorra. Therefore, the consumers will immediately connect the financial and real estate services identified by the mark applied for with Andorra as a geographical place. Moreover, Andorra is well known for its culture, tourism and favourable climate. The relevant public will therefore regard 'Andorra' as an indication

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of the origin of the travel arrangement services. The training and education services may be perceived as relating to the specific characteristics of the Andorran education system. Likewise, when confronted with cultural or sporting activities offered under the trade mark applied for, the public will immediately think that they relate to Andorra. For the publication of books, the consumers are likely to perceive the mark applied for as a reference to the particular quality of those services, bearing in mind that Andorra was known for the publication of literary works in the past. Finally, Andorra is a major destination for wellness tourism. Therefore, the word 'Andorra' constitutes a direct reference, for the relevant public, to a place where beauty services are provided. The General Court's decision confirms that of the Board of Appeal to consider the sign 'Andorra' purely descriptive under Article 7(1)(c) EUTMR for all the relevant goods and services.

Practical Significance

The judgment is in line with the case-law of the General Court concerning the assessment of purely descriptive geographical place names (15/01/2015, T 197/13, MONACO, EU:T:2015:16; 20/07/2016, T 11/15, SUEDETIROL, EU:T:2016:422).

The necessary link between the place name and the product or service is easily detectable for services like financial, touristic, cultural or sporting activities. Andorra is well known for its banking sector and is famous for tourism and sports, particularly winter sports. That link is more difficult to establish for tobacco. The connection between the geographical place and the product is normally assessed in relation to the place of production, not the place of distribution (06/09/2018, C 488/16 P, NEUSCHWANSTEIN, EU:C:2018:673, § 49-50; 24/03/2021, T 93/20, Windsor-castle, EU:T:2021:164, § 27). However, there are exceptions. For example, consumers in Italy and Germany would immediately associate Trieste and Hamburg with coffee, given the longstanding reputation of those cities for the roasting and wholesale of coffee beans. Whether 'advantageous tax conditions' alone are in fact sufficient to create such a link between the place (Andorra) and the product (tobacco), as found by the General Court, is open to debate.

A sign describes the geographical origin of a product or service if it designates a place that is currently associated with the product or service, or if 'it is reasonable to assume that such an association may be established in the future' (04/05/1999, C 108/97 and C 109/97, Chiemsee, EU:C:1999:230, § 31). Accordingly, the General Court considered the

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existence of certain factors (i.e. culture, tourism, favourable natural conditions) sufficient to conclude that, in the future, the relevant public might regard the designation 'Andorra' as an indication of the origin of travel arrangement services.

Finally, the General Court rejected the applicant's argument that the examiner had accepted the signs for books in Class 16 but rejected it for the publication of books in Class 41. That argument was belated because the accepted goods did not form part of the subject matter of the proceedings before the Court. If 'contradictions' between accepted and refused goods are detected, the applicant might successfully argue before the Boards of Appeal that the reasoning of the examiner was flawed (first sentence of Article 94(1) EUTMR). However, there is a risk that the Boards of Appeal will not accept that argument and will instead suggest reopening the examination under Article 30(1) EUTMDR.

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Luxembourg trade mark and design news

09/03/2022, T 204/21, Rugged, EU:T:2022:116

Absolute grounds — Article 7(1)(b) and (c) EUTMR — Article 7(3) EUTMR — Identification of the territory in which the mark is inherently non-distinctive or descriptive — Action dismissed (Board decision confirmed)

The applicant sought to register the word mark 'RUGGED' for goods in Class 10 (patient handling equipment, namely, wheeled medical patient transport devices in the nature of stretchers, cots and stair chairs for transporting patients on stairs; patient safety restraints for wheeled patient transport devices) and Class 12 (fastening systems especially adapted for use in a vehicle or aircraft, comprised of a track and a movable carriage with a coupler to secure medical stretchers and cots in a vehicle or aircraft). The examiner refused the application pursuant to Article 7(1)(b) and (c) in conjunction with Article 7(2) EUTMR reasoning that the 'English-speaking consumer' would perceive it as descriptive of the goods in question and therefore also non-distinctive. In the observations on the provisional refusal, the applicant made a subsidiary claim of distinctiveness acquired through use (Article 7(3) EUTMR) pursuant to Article 2(2) EUTMR. By decision of 26 November 2018 ('the first decision'), the Board dismissed the appeal. In particular, it observed that, since the mark applied for consisted of an English word, account should be

taken of the public in the English-speaking territory of the European Union for the assessment of its eligibility for protection, namely at least the United Kingdom, Ireland and Malta. It therefore upheld the examiner's decision and considered that the mark applied for was descriptive and devoid of distinctive character. Once that decision became final the examiner informed the applicant that it would take a decision pursuant to Article 7(3) EUTMR. Based on the evidence submitted, the examiner rejected the application claiming that the evidence submitted did not show that the mark acquired distinctive character through use pursuant to Article 7(3) EUTMR.

The Board of Appeal (Board) informed the applicant that in light of the goods in question, the relevant public was a professional public in the medical sector with a better knowledge and understanding of English than the general public. It concluded that the majority of the professional public of the whole European Union would understand the meaning of the term 'rugged' as referring to one of the characteristics of the goods covered by the mark applied for and, therefore, that the applicant had to show that the mark applied for had acquired distinctive character through use in the whole of the European Union. After the examination of the arguments and evidence in the case, the Board dismissed the appeal. The applicant filed an action before the General Court (GC). The GC dismissed the action.

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The GC points out that as regards the assessment of the existence of absolute grounds for refusal within the meaning of Article 7(1) EUTMR, it is apparent from the wording of Article 7(2) EUTMR that a sign must be refused registration even if the grounds of non-registrability obtain in only part of the European Union (§ 26).

In order to refuse registration of a sign as provided for in Article 7(1)(b) and (c) EUTMR, it is not necessary to identify all of the relevant territory in which the grounds for refusal took effect, since it is sufficient to observe that those grounds exist in only part of the European Union (§ 27).

The examination of Article 7(3) EUTMR requires the identification of the part of the European Union in which the sign was, ab initio, devoid of distinctive character. Therefore, it requires the identification of the whole of the relevant territory in which one of the absolute grounds for refusal laid down in Article 7(1)(b) and (c) EUTMR took effect (§ 30-31).

In the first decision, the Board was not asked to examine Article 7(3) EUTMR. The Board was therefore not required to identify the whole of the relevant territory. If the territory in respect of which the grounds for refusal under Article 7(1)(b) and (c) EUTMR is not fully identified and should the Board be prevented from being able to supplement its examination of the territory when it examines Article 7(3) EUTMR, it would follow that a mark could

be registered even though it were, ab initio, devoid of distinctive character in other parts of the EU. That would amount to failing to have regard to the practical effect of that provision (§ 37, § 40).

The Board referred in the first decision to the 'English-speaking territory of the European Union', which refers only to countries whose official language is English. However, it does not thereby follow that the Board did not intend to consider that the relevant territory might extend beyond those three countries (§ 43).

It is well known that English is understood and spoken elsewhere than in the countries of which it is the official language. Since the mark applied for consists of an English word, the Board was entitled to find that even if the first decision referred only to the public in the English-speaking territory of the European Union, account could also be taken of the public of the rest of the European Union which had a good understanding of English and therefore the analysis of the relevant territory in the first decision was not exhaustive (§ 46).

The Board could reasonably conclude that the meaning of the word mark 'RUGGED', in relation to the goods at issue, would be perceived by the majority of the relevant professional public in the whole of the European Union (§ 58).

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16/03/2022, T 281/21, **Ape tees (fig.) / Device of ape head (fig.) et al.**, EU:T:2022:139

Brexit – Relevant point in time for assessing an opposition — Action upheld (Board decision annulled)

The applicant sought to register the figurative trade mark



in respect of various goods and services in Classes 3, 9, 14, 18, 25 and 35. An opposition was filed according to Articles 8(1)(b), 8(4) and 8(5) EUTMR. The Opposition Division (OD) rejected the opposition as unfounded as regards the earlier registered trade marks since the opponent did not submit any evidence concerning their substantiation; and as regards the non-registered trade marks since the evidence submitted did not include any information on the legal protection granted to the type of trade sign invoked by the opponent in relation to France and Italy. As regards the earlier non-registered sign in the United Kingdom (UK), the OD found that the opponent did not provide sufficient evidence in order to prove that the earlier signs were used in the course of trade of more than local significance in connection with the goods and business activities on which the opposition was based before the relevant date and in the relevant territory.

The Board of Appeal (Board), in its decision of 10 February 2021, dismissed the appeal. It confirmed the findings of the OD as regards the grounds pursuant to Article 8(1)(b) and 8(5) EUTMR. As to the belated evidence concerning substantiation of the two earlier IRs, it noted that the function of appeal proceedings is not to remedy the shortcomings in the conduct of a party to the proceedings who, as in the present case, was clearly and unambiguously informed by the OD that it had to file registration certificates or equivalent documents emanating from the administration by which the trade mark was registered, failing which the opposition would be rejected without any examination of its merit. With regard to Article 8(4) EUTMR, it found that when it comes to the earlier UK rights the opponent could no longer rely on the rules governing common-law actions for passing off under the law of the UK after the withdrawal of the UK from the EU and after the expiry of the transition period provided for in the withdrawal agreement. It found, first, that the relevant date with regard to the existence of the earlier rights was that of the adoption of the contested decision, which took place, in the present case, after the expiry of the transition period. Secondly, it found that, as from the end of the transition period, no conflict between the mark applied for and the earlier non-registered trade marks could arise, in so far as those earlier non-registered trade marks were used in the course of trade in the UK. Regarding the earlier French and Italian non-registered trade marks, the Board

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concluded that the opponent failed to comply with the requirement of providing sufficient detailed and accurate information about the national law in France and Italy. In addition, the Board considered that in any case the evidence submitted by the opponent is insufficient to prove that the earlier signs were used in the course of trade of more than local significance in connection with the goods and business activities on which the opposition was based before the relevant date and in the relevant territory. The opponent filed an action before the General Court (GC). The GC annulled the decision of the Board.

The GC points out that the existence of a relative ground for refusal must be assessed as at the time of filing of the application for an EUTM against which an opposition has been brought. In that regard, the fact that an opposition under Article 8(4) EUTM is based on non-registered trade marks used in the course of trade in the UK and on the law of passing off laid down in the law of the UK is irrelevant in the case of an opposition brought against an application for an EUTM which was filed before the entry into force of the withdrawal agreement and the expiry of the transition period (§ 28-30).

The mere use of the present tense in Article 8(4) EUTMR does not make it possible to derive any conclusion as regards its interpretation. Since that provision begins with the words ‘upon opposition by the proprietor of a non-registered trade mark’, it cannot be ruled out that the present tense which is subsequently used in that provision refers more to the time when the opposition is brought, and not to the time when the contested decision is adopted (§ 34).

The GC finds that, in spite of the withdrawal of the UK from the EU and the end of the transition period, the opponent has a legitimate interest in the success of its opposition with regard to the period between the date on which the EUTM application was filed and the expiry of the transition period. (§ 25, § 29, § 31).

Furthermore, Article 42(2) EUTMR, which lays down an obligation for the opponent to prove genuine use of the earlier mark, refers to the period of five years preceding the date of publication of the EUTM, and not to the period which ends on the date of the EUIPO’s final decision on the opposition (§ 39).

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Even if it were to be accepted that, after the end of the transition period, a conflict between the marks at issue could no longer arise, the fact remains that, if the mark applied for was registered, such a conflict could nevertheless have existed during the period between the date on which the EUTM was filed and the expiry of the transition period (§ 42).

The GC acknowledges that the opponent had a legitimate interest in the success of its opposition as regards that period. On the other hand, it claims, it would have been open to the applicant to file a new application for registration of the mark applied for as soon as the transition period had expired, an application which would no longer have come into conflict with the earlier non-registered trade marks in so far as they had been used in the course of trade in the UK (§ 43).

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01/03/2022, R 489/2021-5, THE ORIGINAL OAT-LY! (fig.)

Contested EUTM



Revocation – Article 58(1)(a) EUTMR – Proof of use – Nature of use – Decision confirmed – Cancellation partially rejected

An application for a declaration of revocation of the EUTM registration was filed on the grounds of non-use pursuant to Article 58(1)(a) EUTMR in respect of all the goods covered by the registration in Class 29 (oat-based beverages for use as a milk substitute; milk substitutes containing oats, cream substitutes containing oats, sour milk substitutes containing oats, yoghurt substitutes containing oats), Class 30 (flour, oatmeal, rolled oats; food preparations made from cereals; oat-based foodstuffs; muesli; snacks made from muesli; cereal bars and energy-bars; bread; biscuits; pastry and confectionery; oat-based biscuit mixes, pancakes, waffles, liquid

pancake batter, oat-based gruel, oat-based sauces, oat-based vanilla custard, ice-cream, oat-based ice-cream, flavoured ice-cream, fruit ice-cream) and Class 32 (non-alcoholic beverages, oat-based beverages, fruit and berry beverages based on oats). The Cancellation Division (CD) partly rejected the application for revocation maintaining the EUTM registered for the goods ‘oat-based beverages for use as a milk substitute; milk substitutes containing oats, cream substitutes containing oats, yoghurt substitutes containing oats’ (Class 29), ‘food preparations made from oats; oat-based foodstuffs; oat-based vanilla custard, oat-based ice-cream, flavoured oat-based ice-cream, fruit oat-based ice-cream’ (Class 30) and ‘oat-based beverages, fruit and berry beverages based on oats’ (Class 32). The EUTM proprietor appealed the contested decision.

The Board rejects the appeal. Based on the evidence on the file, the business activity of the EUTM proprietor and its advertisement strategy, the veganism which is becoming a broader lifestyle, the consumer’s interest with respect to different food intolerances and the sub-categorisation of the respective goods by the EUTM proprietor itself in the registration, the Board concludes that the CD did not err in its finding by applying a more narrow approach as regards the definition of the sub-category of the goods in the context of the Aladdin judgment and the subsequent case-law with respect to the goods for which genuine use should be proved. With respect to the claimed

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narrow sub-categorisation, the Board notes that the main criteria for making sub-categories of goods are the purpose or intended use of the product, as those are vital in directing the consumer's choices, since consumers are primarily searching for goods or services which can meet their specific needs. The Board emphasises that, when defining the criteria to establish the category of products for which genuine use has been demonstrated, market realities are determinant and, within that framework, it has to be taken into consideration whether there are specialised industries, specialised shops and trade practices and what is the behaviour of the relevant consumer on the market (15/06/2018, R 2595/2015-G, PELLICO (fig.)). It is indeed important to place the evidence within the context of the economic sector in question. The essential criterion to be applied to distinguish coherent and independent sub-categories of goods is the function of origin. A consumer who wishes to purchase a product or service in a category of goods or services that has been defined particularly precisely and narrowly, but within which it is not possible to make any significant sub-divisions, will associate all the goods or services belonging to that category with a mark registered in respect of that category of goods or services, such that that trade mark will fulfil its essential function of guaranteeing the origin of those goods or services. The case tries to combine the GC (Aladdin) and GB (Pellico) case-law with the more recent CJ (Testarossa) judgment.

02/03/2022, R 1184/2021-5, Sütat

Invalidity – Descriptive – Article 7(1)(c) EUTMR – Non-distinctive – Article 7(1)(b) EUTMR – Complementary evidence – Article 95(2) EUTMR – Decision annulled – EUTM cancelled

An application for a declaration of invalidity of the EUTM, pursuant to Article 59(1)(a) EUTMR in conjunction with Article 7(1)(c) and (b) EUTMR was filed. The application was directed against all the goods covered by the EUTM, namely milk products in Class 29. The Cancellation Division (CD) rejected the application for a declaration of invalidity in its entirety. It established that the Turkish language has to be taken into consideration in the examination since, not only is Turkish an official language in Cyprus but also, as it is generally known, a significant proportion of EU citizens speak and understand Turkish. However, the CD found that although the words 'Süt' meaning 'milk' and 'tat' meaning 'taste' or 'seasoning' exist in Turkish language, it cannot be established that the expression 'Sütat' will be understood as such by the relevant consumers. Therefore the contested EUTM cannot be regarded as descriptive pursuant to Article 7(1)(c) EUTMR. Since the sign is not descriptive there is no lack of distinctive character pursuant to Article 7(1)(b) EUTMR. The cancellation applicant appealed.

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The Board annuls the contested decision. First, the Board, in exercising its discretionary power according to Article 95(2) EUTMR, accepts the belated evidence submitted by both parties. It finds that all the documents submitted are prima facie relevant to the outcome of the proceedings because they could provide information about the understanding of the trade mark at issue, and they supplemented already available evidence to prove the existence (or lack of) of the conditions of Article 59(1)(a) EUTMR in conjunction with Article 7(1)(b) and (c) EUTMR. As to the substance, the Board finds that the cancellation applicant had duly shown that the contested sign would be understood by the Turkish-speaking public in the EU as a combination of the Turkish words 'Süt' (milk) and 'Tat' (taste). Although Turkish is not one of the official languages of the EU, it is one of the official languages of the Republic of Cyprus. Therefore, Turkish is understood and spoken by part of the EU population. With this in mind, the Board finds that in respect of the goods concerned, i.e. milk products in Class 29, the word combination 'Sütat' is purely descriptive.

The Board points out that the grammatical correctness of the sign is less important than the question of whether its meaning is clearly understandable and does not have any content that goes beyond the mere sum of the parts (12/02/2004, C-265/00, Biomild, EU:C:2004:87, § 41). The fact that the words are written as one or are written separately does not influence the

pronunciation of the present sign. The same usually applies to the omission or duplication of a letter. The noticeable difference between the neologism and the mere sum of its parts, which is necessary to deny a purely descriptive character, must also be satisfied in relation to the aural impression conveyed by the trade mark. A misspelling sign is also descriptive within the meaning of Article 7(1)(c) EUTMR if the spelling does not differ noticeably from the descriptive term in aural terms. The EUTM proprietor's argument that the expression 'Sütat' is a fanciful term it invented or a made-up word that could not be found as such in dictionaries is irrelevant. This is because it is irrelevant whether the sign can be found in dictionaries as an overall expression. Dictionaries are not put together in such a way that all possible word combinations are listed. Whether the expression appears in a dictionary or not does not serve as an indication of its descriptive character. By reference to well-known facts, the Board also takes into account that the two words 'süt' and 'tat' were and are used together on the market to describe milk products. It concludes therefore that, on the date of its application, the EUTM was descriptive from the point of view of Turkish-speaking consumers in the EU. Likewise, the EUTM was not capable of distinguishing the commercial origin of the goods concerned. For the Turkish-speaking public of the EU, the sign 'Sütat' amounts to nothing more than the simple statement that milk ('sweet') is the flavour ('tat') of the products that are the subject of these proceedings.

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Consequently, the sign, on the date of its filing, was descriptive and lacked distinctive character and was not apt for registration under Article 7(1)(b) and (c) EUTMR.

08/03/2022, R 57/2021-2, Position of a combination of Presentational Features

Contested EUTM



Non-distinctive - Position marks - Article 7(1)(a) EUTMR, Article 7(1)(b) EUTMR – Article 4 EUTMR - Decision confirmed – Application rejected

The applicant sought to register the above trade mark in respect of agricultural machines and tractors and trailers for agricultural purposes in Classes 7 and 12. The trade mark consists of the colors red, black and yellow as applied to vehicle as shown. No exclusive right is claimed for the shape of the vehicle itself. The examiner rejected the trade mark due to the lack of distinctive character under Article 7(1)

(b) EUTMR in conjunction with Article 7(2) EUTMR, arguing mainly that it is common practice within the market for agricultural implements to use specific colours in different shades and specific positions in a reoccurring and repeated way to distinguish the goods of one undertaking from those of other undertakings. The applicant filed an appeal.

During the appeal proceedings, and in light of Article 27(1) EUTMDR, the applicant was informed that the Board, before assessing the validity of the examiner's reasoning as to Article 7(1)(b) EUTMR, was considering to (partially or entirely) reject the contested mark on the basis of Article 7(1)(a) EUTMR. The communication to the applicant mentioned amongst others that an objection under Article 7(1) (a) EUTMR could be raised for those goods on which the positioning of the mark was unclear. It seemed that such was the case with respect to all the goods except for those as shown by the representation of the EUTM application at hand. The applicant was thus requested to identify with sufficient clarity and precision the specific goods as covered by the representation of the EUTM. Failure to do so could lead to a rejection of the application in its entirety without the Board having to assess the examiner's finding on Article 7(1)(b) EUTMR. The applicant in its response contended that the sign applied for is clearly identified, in accordance with Article 4 EUTMR; the sign is made out by the colours yellow, red and black with the different colours distributed within the dash-dotted lines in specific shapes and



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forms, order, quantity and positions which is shown on the dash-dotted outline of what is commercially and technically termed and known as a 'Disc cultivator'.

The Board first deals with the grounds under Article 7(1)(a) EUTMR. The Board notes that, even though no exclusive right was claimed for the shape as such, the position of the red-yellow-and-black colour combination covers the entire visible part of the product as shown on the representation. The combination is therefore indistinguishable from the appearance of this product (and the different part upon which the colours are placed upon) and intrinsically linked to the product itself as shown on the representation. The applicant cannot file a graphic representation while at the same time claiming a broader protection than that afforded by that representation or which does not correspond to it, in direct contradiction of the rule that 'what you see is what you get' (30/11/2017, T-102/15 – T-101/15, Blue and Silver, EU:T:2017:852, § 77). Article 3(2) EUTMR determines that the description of a sign applied for shall accord with the representation and shall not extend its scope. Therefore, this provision is to be read that the description may limit the scope of the representation if it is in accordance with the representation. As follows from the description of the contested mark, the trade mark consists of the vehicle as shown on the representation. Even if the representation were not to show a vehicle, it is evident that the mark applied for consists of the

product as shown on the contested mark, namely a 'disc cultivator'. Therefore, the Board considers that, in the circumstances at hand, in principle protection is requested for the position of the colour combination on the specific product, a disc cultivator, as shown on the representation. The wording 'in principle' is used because it cannot be excluded automatically that a product may be considered a multi-composite product. The remaining goods of the broad category 'agricultural machines' are not 'disc cultivators' and therefore, to this extent, the mark applied for is not represented in a manner which enables the Office or the public to determine the clear and precise subject matter of the protection to be afforded to the applicant. The mere fact that a part of the goods – in casu 'disc cultivators' – are covered by the broad category 'agricultural machines' does not justify a finding that therefore the broad category as such has to be accepted. Thus, contrary to the applicant's arguments, the Board finds that Article 7(1)(a) EUTMR applies for those goods on which the positioning of the mark is unclear. This occurs with respect to all the goods with the exception of the 'disc cultivators' that are included in the broader category of 'agricultural machines' in Class 7. As regards the grounds under Article 7(1)(b) EUTMR, the Board confirms the examiner's decision. It indicates that in the case at hand the colours are indistinguishable from the appearance of the parts of the designated products. Under such circumstances, it is necessary to examine whether the sign for which registration as a trade mark is sought departs significantly from the

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norm or customs of the economic sector concerned. The Board accepts, taking also into account the evidence on file, that it is common and established practice that the different manufacturers of agricultural equipment in Europe use specific colour schemes affixed to their agricultural equipment. Thus, a specific agricultural product from one undertaking will, in general, use only one colour or colour combination. Moreover, if an undertaking were to manufacture different types of agricultural equipment, the same colour or colour combination would be applied to them. Furthermore, the Board agrees that the relevant public, namely the farmers, are aware of this practice. Nonetheless, even in the context as established above as well as taking into account that the goods at issue are rather specific agricultural products, namely 'disc cultivators', and aimed at a specific professional public in the agricultural field, this does not mean that therefore the trade mark, for which the assessment pursuant to Article 7(1)(b) EUTMR has to be made, is to be found inherently distinctive. The Board indicates that it is a well-known fact that the colours 'red' and 'yellow' are frequently used for safety purposes ensuring the visibility of the goods concerned on all sorts of equipment in various fields, including in the agricultural field. These colours have a signaling effect which is of particular importance in relation to the goods at issue not only at the moment when they are used, according to their purpose, but also when they are 'parked' or 'on the road' and form a potential danger for other road users. There is

nothing particularly memorable or notable about the color combination in the present case, as affixed on the disc cultivator, that would allow the relevant consumer to see it as anything else than an aesthetic, ornamental or 'design' element to create a decorative effect or, at the most, as colours or a colour combination specifically chosen for safety purposes.

In view of these considerations, the Board concludes that the mark applied for did not function inherently as an indicator of the commercial origin for 'disc cultivators'. Thus, inherently, the sign did not possess distinctive character as required under Article 7(1)(b) EUTMR.

11/03/2022, [R 98/2021-1](#), Goya / Goya et al.

Likelihood of confusion – Article 8(1)(b) EUTMR – Dissimilarity of the goods and services – Reputation – Article 8(5) EUTMR

The applicant sought to register the trade mark for the word 'GOYA' in respect of all the goods and services in, inter alia, Classes 5, 9, 25, 39, 41 and 43. An opposition was filed on the grounds of Article 8(1)(b) and Article 8(5) EUTMR invoking an earlier figurative EUTM

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an IR designating the EU and several national trade marks for the word 'GOYA' registered in respect of goods in Classes 29, 30 and 32, respectively and on the ground of Article 8(4) EUTMR invoking a non-registered trade mark for the same word. The Opposition Division (OD) upheld the opposition partially, namely for the 'services for providing food and drink' in Class 43 and rejected the opposition for the remaining goods and services finding the dissimilarity between them and the opponent's goods in the context of Article 8(1)(b) EUTMR. As regards Article 8(5) EUTMR, it concluded that the opponent failed to prove that any of its trade marks have a reputation. The opposition was rejected as unfounded as regards Article 8(4) EUTMR. The opponent filed an appeal.

The Board clarifies that the opponent's arguments before the Board only concern the grounds pursuant to Articles 8(1)(b) and 8(5) EUTMR. It furthermore accepts the additional evidence filed for the first time at the appeal stage in line with Article 95(2) EUTMR and Article 27(4)(a) EUTMR. Following an examination of all the facts, arguments and evidence, the Board confirms the findings of the Opposition Division regarding the comparison of the goods and services at issue. In particular the Board finds that the mere fact that the goods in Class 5 may include nutritional supplements and that, in addition to their main medical function, they also have nutritional functions, this does not warrant these goods being similar to the foodstuffs or drinks in Classes 29, 30

and 32. As regards the services in Class 41, it finds that the mere fact that the opponent's goods in Class 32 may include, among others, sports drinks and that they are aimed at the same relevant public as the applicant's services is insufficient to overcome the differences between them. In relation to the contested 'temporary accommodation' in Class 43 and the opponent's goods, it elaborates that although some of the establishments providing temporary accommodation also offer food and/or drinks, customers of that service are aware that the commercial origin of such products is different from the hotel itself. Guesthouses where food or drinks as, for instance, jams and beer are produced by the host constitute exceptions from the general rule. Likewise, it is very uncommon on the market for a commercial undertaking to manufacture foodstuffs or beverages and provide at the same time temporary accommodation.

As regards the claim of reputation pursuant to Article 8(5) EUTMR, the Board notes that, the claim of reputation of the earlier marks in the United Kingdom cannot be taken into account due to the Brexit. As to the public in Spain in respect of which the reputation of the mark 'GOYA' is also claimed, the Board concurs with the Opposition Division's view that the Latin American population of Spain, without doubt, forms a substantial part of the relevant public in the EU. In order to properly examine the reputation of the opponent's mark, it has to established whether the evidence submitted

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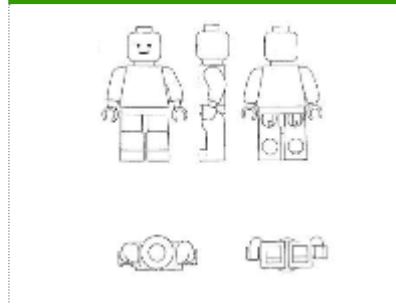


is sufficient to prove that the mark enjoys a relevant degree of recognition among the average consumers in the relevant territory. The Board points out that such assessment cannot be carried out only in light of the perception of the Latin American public residing therein. The Board notes that the evidence submitted demonstrates reputation of the opponent's brand among the large Hispanic community in the USA. However, the reputation achieved in the USA cannot be transposed to Spain. As to Spain, the evidence, assessed as a whole, only permits the Board to affirm that especially since 2007, the opponent started to officially distribute its products in that territory. Thus, the Board concludes that the evidence filed, taken as a whole, is insufficient to establish a reputation in Spain and, for the sake of completeness, also in the EU.

16/03/2022, R 1355/2021-5, Form einer Spielzeugfigur mit Noppe auf dem Kopf (3D)

Invalidity - Article 59(1)(a) - Three-dimensional mark - Shape of the products - Technical result - Article 7(1)(e) (i) and (ii) EUTMR - Res judicata - Article 63(3) EUTMR - Scope of proceedings - Article 70(1) EUTMR - Article 71(1) EUTMR - Article 21(1)(e) EUTMDR - Decision confirmed - Cancellation rejected

Contested EUTM



The 3D mark depicted above was registered as an EUTM for goods in Classes 9 (computer games), 25 (clothing articles) and 28 (games and playthings) on the basis of acquired distinctiveness. An application for a declaration of invalidity of the EUTM pursuant to Article 59(1)(a) EUTMR in conjunction with Article 7(1)(e)(i) and (ii) EUTMR was filed. The application was directed against all the goods covered by the EUTM. The Cancellation Division rejected the application for a declaration of invalidity in its entirety. First, with regards to Article 7(1)(e)(i) EUTMR, it stated that it cannot be concluded that the shape of the goods has elements that result from the nature of the goods, or that the trade mark has such a necessarily common shape that corresponds to the category of the goods. The contested EUTM shows a toy figure representing a human being. As a toy design, it belongs to a type of product for which there is, in principle, a wide margin of discretion, as the figure can be alienated of familiar forms and stylised in

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creative ways. Thus, the mere fact that the figure in question portrays a human being cannot suffice to deny the trade mark eligibility for protection under Article 7(1)(e)(i) EUTMR otherwise the scope of protection of that provision would be extended whenever the trade mark is based on an original form, such as the human body. Regarding Article 7(1)(e)(ii) EUTMR, the Cancellation Division (CD) decided that the mere buildability and connection possibilities cannot be considered a 'technical result'. The cancellation applicant appealed the contested decision and requested that the decision be annulled.

The Board confirms the contested decision by which the CD rejected in its entirety the application for a declaration of invalidity of the shape mark, as depicted above, registered for goods in Classes 9, 25 and 28. The Board, first notes that considering the application date of the contested EUTM, 1 April 1996, the present case is subject to the substantive provisions of Community Trade Mark Regulation No 40/94 (CTMR) in its original version. Thus the two relevant provisions of the CTMR that are relevant to the decision are based solely on the 'shape' of the goods, but not on 'another characteristics' of the goods. On the other hand, the provisions of Article 7(1)(e)(i) and (ii) EUTMR, which additionally refer to 'another characteristics' of the goods, are not applicable *ratione temporis* to the present case, as they do not have retroactive effect.

The Board deals furthermore with the issue of *res judicata* pursuant to Article 63(3) EUTMR. The Board notes that the second and third conditions for declaring an application for declaration of invalidity inadmissible, namely the requirements that the Office already ruled on in an application regarding the same subject-matter and in which its decision became final, are fulfilled, since in the decision of 26 March 2014 the Board refused the first invalidity application of the contested mark entirely based on the same grounds under Article 7(1)(e)(i) and (ii) CTMR (now EUTMR) and this decision became final. However, the first condition relating to the identity of the legal persons filing the two invalidity applications is not fulfilled. Consequently, Article 63(3) EUTMR is not applicable and the appeal is admissible. Regarding Article 7(1)(e)(i) EUTMR, it is first noted that the present case concerns a toy figure falling under the category 'games and playthings' in Class 28. The essential characteristics of the contested mark are its head, body, arms and legs which are required for the figure to have a human appearance. On the other hand, the graphical representation of the hands, the nub on the head and the holes underneath the figure's feet and on the back of their legs, are not considered essential characteristics. The EUTM does not reproduce an 'interlocking brick' and it is not clear beyond any doubt that the essential characteristics of the sign are the dismantlability, buildability and compatibility of the figure. Despite the possibility to be broken down and the compatibility with

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the EUTM proprietor's modular building system, dismantlability, buildability and compatibility are irrelevant to the function of the LEGO toy figure as such. Furthermore, the sign refers to a shape of goods (toy figure) that contains further essential decorative and fanciful elements which do not have the inherent function of this type of goods. Whereas it is true that a toy figure in the form of a human must have a head, body, and a set of arms and legs, these essential characteristics may be specifically designed in any form, and not necessarily in the specific shape of the contested sign. This is true for 'games and playthings' in Class 28, but also with regards to the other contested goods in Classes 9 and 25 mutatis mutandis. Moreover, the CD was right in noting that the mere fact that the figure constitutes a human being is not sufficient to deny protection of the trade mark. The requirements for the application of Article 7(1)(e)(i) EUTMR are not met. Regarding Article 7(1)(e)(ii) EUTMR, the essential characteristics of the sign are the same ones as identified above and with regard to the requirement of all essential characteristics fulfilling the good's technical function, the following can be said. Even though it cannot be disputed that the LEGO toy figure is compatible with the EUTM proprietor's modular building system, it is generally known that it is principally speaking possible to play with this toy figure exactly in the same way as with any other toy figures (holding, moving, and dismantling). The evidence submitted does not show that the shape of the figure as a whole, is necessary to obtain a

particular technical result and specifically, it was not proven that the shape is necessary in its entirety and as such to enable the figure to be connected with interlocking building bricks. The 'result' of the shape only consists in giving the figure human features and the fact that the figure constitutes a character and that it can be used in the context of toys cannot be considered a 'technical result'. The contested EUTM does not have any lines or designs that clearly and unambiguously reveal its buildability and modularity in the context of the EUTM proprietor's modular building system. The multiple examples submitted by the cancellation applicant as to the functional characteristics of the EUTM are not capable of proving modularity or any technical result. It is recalled that such functional characteristics are inherent in any product shape to a certain degree, which is why the two thresholds 'exclusively' and 'necessary' need to be met for Article 7(1)(e)(ii) EUTMR to apply. As a reply to the cancellation applicant's assertions, it is furthermore clarified that the protection offered by the contested EUTM does not give its proprietor the right to prohibit third parties from marketing toys/ interlocking bricks that are technically compatible with the EUTM proprietor's modular building system but have a different shape than the EUTM. These findings apply to the contested goods in Class 28, but mutatis mutandis to the contested goods in Classes 9 and 25. Since the requirements for the application of Article 7(1)(e)(ii) EUTMR are also not met, the appeal is dismissed.

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18/03/2022, R 1005/2021-5, Tradiční klasická Znojmská okurka (fig.)

Contested EUTM



Revocation – Article 58(1)(a) EUTMR – Proof of use – Nature of use – Deceptive element – Indication of the place of origin – Article 58(1)(c) EUTMR – Decision confirmed – EUTM revoked

An application for a declaration of revocation of the EUTM registration was filed on the grounds of non-use pursuant to Article 58(1)(a) EUTMR in respect of all the goods and services covered by the registration in Classes 29, 31 and 35. In addition, the revocation applicant claims that the contested mark could mislead the public as regards the nature, quality and geographical origin of the contested goods and services since it conflicts with the protected designation of origin (PDO) 'Znojmské okurky' ('Znojmo gherkins') registered in the Czech Republic. The mark was originally not misleading as it was owned, until 2016, by a cooperative seated in Znojmo, and the products sold under the mark were

in compliance with the PDO. On the contrary, the current owner does not produce the gherkins in the designated area. The revocation applicant argues that consumers would perceive the name 'Znojmo gherkin' as an indication that the product originated in Znojmo and therefore it could mislead the public as regards the nature, quality and geographical origin of the pickled gherkins, whereas the EUTM proprietor claims that consumers assume that 'Znojmo gherkin' is an indication of the fact that the gherkins were pickled according to the traditional recipe used in Znojmo, regardless of whether or not the gherkins themselves were grown or pickled in the region of Znojmo. The Cancellation Division (CD) upheld the application for revocation and revoked the EUTM registration in its entirety. It stated that the evidence submitted does not show any use of the registered goods or services apart from pickled gherkins in Class 29. As regards the latter, it found that the average consumers will make the logical assumption that gherkins labelled as 'Znojmo gherkins' originate from Znojmo or its surrounding region. Thus the revocation is successful pursuant to Article 58(1)(a) EUTMR as regards all the contested goods and services apart from pickled gherkins in Class 29, in relation to which the revocation is successful pursuant to Article 58(1)(c) EUTMR. The EUTM proprietor filed an appeal.

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The Board at first clarified that as the CD did, it will not address the issue of whether the contested EUTM infringes the protected designation of origin 'Znojenské okurky' since the present case concerns an application for revocation based on Article 58(1)(a) and (c) EUTMR. As regards proof of use under Article 58(1)(a) EUTMR, the Board confirms that there is evidence of the place, time, extent and nature of use and therefore of the genuine use of the contested EUTM in the form registered in the Czech Republic for 'pickled cucumbers' (or gherkins) which are listed separately in the list of goods. The sole issue contested by the EUTM proprietor is whether proof of use for 'pickled cucumbers' also constitutes use for 'sterilised, pickled and preserved vegetables' and 'sterilised and pickled mixtures'. The Board finds, applying the principles established by the Aladin judgment that there is no evidence that justifies that the contested EUTM should be maintained on the register for the above broader categories of goods. As regards the grounds under Article 58(1)(c) EUTMR, the Board finds that the contested EUTM in the manner in which it is used is liable to be deceptive of the nature, quality or geographical origin of the goods for which genuine use has been found, as the essential message it conveys to the average consumer is of pickled gherkins elaborated from cucumbers grown in Znojmo, a district in the Czech Republic that has been historically linked with the growing and pickling of cucumbers, and/or by

an undertaking established or with a production facility in Znojmo. Essentially, at the filing date of the contested EUTM, the predecessor-in-title to the EUTM proprietor was established in Znojmo. However, at the date that the revocation application was filed, neither the EUTM proprietor nor its licensee retained an establishment or production facility in Znojmo and pickled gherkins bearing the contested EUTM were not elaborated from cucumbers grown in Znojmo. The Board confirms that the average Czech consumer is liable to make a connection between the EUTM proprietor's product and the nature, quality and geographical origin of the 'traditional Znojmo gherkins' from the wording 'Znojemská okurka' in prominent letters, meaning 'Znojmo gherkin', with the wording 'Tradiční klasická', meaning 'Traditional classic', which is the obvious and direct message that the contested EUTM conveys even in the contested EUTM in the manner used. Such a conclusion would obviously be the same if use for 'pickled cucumber' had been considered also use for 'sterilised, pickled and preserved vegetables' and 'sterilised and pickled mixtures'. Accordingly, the EUTM must be revoked in its entirety pursuant to Article 58(1)(a) and (c) EUTMR.

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30/03/2022, R 808/2021-3, Shoes

Invalidity – Article 25(1)(b) CDR – Lack of novelty – Article 5 CDR – Individual character – Article 6 CDR – Disclosure – Article 7(1) CDR – Discretionary power – Additional evidence – Article 60(1) CDR, Article 63(2) CDR – Decision confirmed – Invalidity rejected

An application for a declaration of invalidity of

Contested RCD



the above RCD was filed based on Article 25(1)(b) CDR claiming that the contested RCD lacks novelty (Article 5 CDR), and individual character (Article 6 CDR). The Cancellation Division (CD) rejected the application for a declaration of invalidity arguing that the informed user is a person familiar with designs for casual footwear. Apart from the fact that the designer of a shoe has to follow the ergonomics of the foot and the need for the footwear to stay securely on the foot and offer comfort and provide support, the design freedom is broad. Taking into account the designer's broad degree of freedom, the significant differences between the contested RCD and the invoked designs D2-D6 will lead to a clearly different overall impression on the informed user.

As regards the evidence in relation to the design D1, which according to the invalidity applicant is prior and identical to the contested RCD, the CD noted that there are serious doubts about the accuracy and probative value of the relevant evidence, in particular the indicated publication date which should be prior to the contested RCD. Therefore, it does not prove disclosure of the design D1 before the filing date of the RCD. The invalidity applicant filed an appeal.

The Board confirms the contested decision. At first the Board exercises its discretionary power under Article 63(2) CDR and accepts the additional evidence submitted at the appeal stage. After an examination of the evidence in its entirety, the Board concludes that the evidence submitted is insufficient to establish disclosure of D1 arguing that the invalidity applicant had ample possibility to complete and corroborate the evidence submitted by furnishing more articles clearly depicting the claimed design or any other means of independent evidence that could constitute disclosure of D1 within the meaning of Article 7(1) CDR. Nonetheless, the invalidity applicant limited itself to essentially reiterating its previous arguments. The Board emphasises that disclosure cannot be proved by means of probabilities or suppositions but must be demonstrated by solid and objective evidence.

As regards the assessment of the individual character of a design, the Board at first defines the terms of the informed user within the meaning of Article 6 CDR and of the designer's degree of

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freedom. According to the Board, the informed user in the present case is any member of the general public who habitually purchases casual shoes, in particular sneakers, puts them to their intended use, possesses a certain degree of knowledge with regard to the features which those designs normally include and has become informed on the subject by browsing through catalogues of, or including, shoes, visiting the relevant stores, downloading information from the internet or searching for them via any other means. The informed user shows a relatively high degree of attention when using them. The designer’s freedom in developing casual shoes, in particular sneakers, is wide. It is only restricted insofar as the shoes need to follow the ergonomics of the feet and provide firmness, postural

steadiness and be comfortable and safe for the user. Nevertheless, the designer is free to choose, inter alia, the shape, the material, colour, patterns and decorative elements. Further constraints or statutory requirements applicable to the products are not apparent and have not been demonstrated by the parties.

After a detailed examination of the facts, arguments and evidence, the Board finds that the conflicting designs reveal a plethora of differences which suffice to generate distinct overall impressions on the informed user. Thus, the contested RCD is neither identical nor does it produce the same overall impression on the informed user as the prior designs invoked.

Prior designs D2	Prior designs D3	Prior designs D4	Prior designs D5	Prior design D6
D2a	D3a	D4	D5	D6
D2b	D3b	D4	D5	
D2c	D3c	D4	D5	
D2d		D4	D5	

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New cancellation decisions

Each edition of Alicante News includes a new summary in the series of interesting decisions from the EUIPO's cancellation division.

21/01/2022, C 49 172 (Invalidity), TRILLIUM (word mark)/TRILLIUM (word mark)

Invalidity – Article 59(1)(b) EUTMR – Assessment of bad faith – Cancellation rejected

A request for a declaration of invalidity of the EUTM registration was filed on the grounds of Article 59 (1)(b) EUTMR, against all the goods and services covered by the EUTM in Classes 16, 35 and 36.

The applicant argued that the contested EUTM was identical to the applicant's company name 'TRILLIUM' and designated identical and complementary services to the applicant's core business. It also argued that given the duration of the prior use of the sign 'TRILLIUM' both within the EU and in a neighbouring country, as well as the general knowledge the proprietor must have had of the relevant economic sector, the latter must be presumed to have been aware of the applicant's prior use of the sign 'Trillium' for financial investment services. Moreover, according to the applicant, the EUTM proprietor never intended to use the contested EUTM for any other purpose than blocking others from registering it.

The EUTM proprietor claimed that the applicant did not use the 'Trillium' mark within the European Union until at least 2017. It further claimed that the applicant was incorporated in 2002, 3 years after the proprietor changed its name to 'Trillium Asset Management', and that the applicant had operated under the 'Manavest' trade mark until 2019. Therefore, according to the proprietor, the filing of the contested EUTM followed a commercial logic devoid of any bad faith.

In its decision, the Cancellation Division decision highlighted that the invalidity applicant had not submitted enough evidence to show that at the time of filing the contested EUTM the EUTM proprietor was aware of or must have been aware of any use by the invalidity applicant of an identical sign for identical services for which there could be a likelihood of confusion. Therefore, the applicant failed to submit sufficient facts and objective indications that would allow a positive finding of bad faith.

The Cancellation Division pointed out that the fact that the EUTM proprietor knows or must know that the invalidity applicant has been using an identical/similar sign for identical/similar goods or services for which a likelihood of confusion may arise is not sufficient for a finding of bad faith.

Consequently, the applicant's arguments were rejected as unfounded and the application for a declaration of invalidity was rejected.

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Case-law on IPR Infringement and Enforcement

A new update of the [Recent European Case-law on the Infringement and Enforcement of Intellectual Property Rights](#) (IPR) is out now.

The 'recent case-law update' reports on the latest significant European decisions related to infringing and enforcing IP rights. The document contains **214 summaries of key judgments** from national courts and preliminary rulings from the Court of Justice of the European Union (CJEU).

The first part features the most recent cases:

- In case C-433/20, the [CJEU](#) ruled that the **private copying exception** can apply to reproducing copyright-protected content for private purpose **in the cloud**. The Court then clarified that Member States that implemented the private copying exception in their national law are required to provide a fair compensation to rights holders. However, it does not necessarily have to be the cloud service providers who pay said compensation.
- In [Germany](#), the Berlin Regional Court applied for the first time the **pastiche exception**, which was included in the German Copyright Act in July 2021 due to the implementation of the Directive on Copyright in the Digital Single Market ([Directive \(EU\) 2019/790](#)). It ruled that the

reference to a pre-existing digital work (depiction of a blossoming cherry tree on a lava cliff) in a new painting through a collage-like integration falls under the pastiche exception and does not infringe the copyright of the pre-existing work.

- In [Spain](#), the Court examined whether the **television game** known as El Rosco was protected by copyright and thereby infringed the rights of a Dutch company that claimed authorship of this format of televised content.
- In [Italy](#), the Supreme Court assessed whether inserting an artist's entire collection of works in a methodological study could fall under the **quotation exception**. The Court ultimately ruled that this was not the case, saying notably that this exception only applied to partial reproductions of works, including **visual arts**.
- Staying in [Italy](#), the Milan Court of First Instance looked at whether French company Longchamp's Le Pliage **handbag** was eligible for **copyright protection**. It stated that even when the commercial success of a product verifies its originality, this is not enough to prove its artistic value and hence grant it copyright protection.
- In [Estonia](#), the Supreme Court examined how to determine the amount of equitable **remuneration** for producers of phonograms and performers when the **phonograms** are used commercially and communicated to the public.

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It includes other national developments, such as:

- a civil action against the provider of unauthorised **IPTV packages** in [Holland](#);
- a follow-up on the judgement issued by the CJEU in [C 690/17](#), ÖKO-TEST, in [Germany](#). It included a clarification on the damages for breaching the trade mark license agreement.

The second part covers decisions issued between 2018 and March 2022.

[The case-law update](#) aims to provide practitioners, judges and lawmakers with a meaningful overview of the latest developments and trends in jurisprudence in this field.

[More information about this initiative and other Observatory activities in the field of case-law.](#)

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