

# Weak Trade Marks: Defining Dominant and Distinctive Elements



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## Concept of Dominance

- Whether or not an element is visually outstanding may be determined in the visual comparison of the signs
- The sign should have at least two identifiable components
- Word marks have no dominant elements because by definition they are written in standard typeface
- Figurative elements may be dominant in signs where word elements are also present
- If it is difficult to decide which of the (at least) two components is dominant, this may be an indication that there is no dominant element or that no element is more dominant than the other (which includes cases of codominance).

Fiction

RÛTA

Fiction

**RŪTAS**



Applied for services in Class 41  
'flowers'

## Fiction

A new trade mark is applied:

**RUTAS**

Class 41

Fiction



**RŪTAS**

VS

**RUTAS**

Fiction



VS

**RUTAS**

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## Questions of interest

- How the language influence the decision of likelihood of confusion
- Distinctiveness can change over time
- If a weakly distinctive element is a dominant element, will it be disregarded in assessment of LoC





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