

OPPOSITION No B 3 216 033

The Polo/Lauren Company L.P., 650 Madison Avenue, 10022 New York, United States (opponent), represented by **Cabinet Cande-Blanchard-Ducamp (Aarpi Plasseraud IP Avocats)**, Rue de Richelieu, 104, 75002 Paris, France (professional representative)

a g a i n s t

Prime Cotton Fz-Lcc, Compass Building, Al Shohada Road, Al Hamra Industrial Zone -fz, Ras Al Khaimah, United Arab Emirates (applicant), represented by **Massimiliano Jelo di Lentini**, Via Sant'antonio, 14, 20122 Milano, Italy (professional representative).

On 07/04/2025, the Opposition Division takes the following

DECISION:

1. Opposition No B 3 216 033 is upheld for all the contested goods, namely

Class 24: *Textile material; bed linen and table linen; linen for the bed; kitchen linen; household linen; infants' bed linen; bath linen.*

Class 25: *Clothing; footwear; headgear; parts of clothing, footwear and headgear*
2. European Union trade mark application No 18 979 833 is rejected for all the contested goods. It may proceed for the non-contested goods.
3. The applicant bears the costs, fixed at EUR 620.

REASONS

On 22/04/2024, the opponent filed an opposition against some of the goods of European



Union trade mark application No 18 979 833 **POLO REALE** (figurative mark), namely against all the goods in Classes 24 and 25. The opposition is based on, inter alia, European Union trade mark registration No 4 049 334, 'POLO' (word mark). The opponent invoked Article 8(1)(b) EUTMR and Article 8(5) EUTMR.

REPUTATION — ARTICLE 8(5) EUTMR

For reasons of procedural economy, the Opposition Division will first examine the opposition in relation to earlier EUTM registration No 4 049 334.

According to Article 8(5) EUTMR, upon opposition by the proprietor of a registered earlier trade mark within the meaning of Article 8(2) EUTMR, the contested trade mark will not be registered where it is identical with, or similar to, an earlier trade mark, irrespective of whether the goods or services for which it is applied are identical with, similar to or not

similar to those for which the earlier trade mark is registered, where, in the case of an earlier European Union trade mark, the trade mark has a reputation in the Union or, in the case of an earlier national trade mark, the trade mark has a reputation in the Member State concerned and where the use without due cause of the contested trade mark would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.

Therefore, the grounds for refusal of Article 8(5) EUTMR are only applicable when the following conditions are met.

- The signs must be either identical or similar.
- The opponent's trade mark must have a reputation. The reputation must also be prior to the filing of the contested trade mark; it must exist in the territory concerned and for the goods and/or services on which the opposition is based.
- Risk of injury: use of the contested trade mark would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trade mark.

The abovementioned requirements are cumulative and, therefore, the absence of any one of them will lead to the rejection of the opposition under Article 8(5) EUTMR (16/12/2010, T-357/08, BOTOCYL / BOTOX, EU:T:2010:529, § 41; 16/12/2010, T-345/08, BOTOLIST / BOTOX, EU:T:2010:529, § 41). However, the fulfilment of all the abovementioned conditions may not be sufficient. The opposition may still fail if the applicant establishes due cause for the use of the contested trade mark.

In the present case, the applicant did not claim to have due cause for using the contested mark. Therefore, in the absence of any indications to the contrary, it must be assumed that no due cause exists.

a) Reputation of the earlier trade mark

Reputation implies a knowledge threshold that is reached only when the earlier mark is known by a significant part of the relevant public for the goods or services it covers. The relevant public is, depending on the goods or services marketed, either the public at large or a more specialised public.

In the present case, the contested trade mark was filed on 30/01/2024. Therefore, the opponent was required to prove that the trade mark on which the opposition is based had acquired a reputation prior to that date. In principle, it is sufficient that the opponent show that its mark already had a reputation on that date. While it follows from the wording of Article 8(5) EUTMR that the conditions for its application also need to be present at the time of taking the decision, and therefore the reputation of the earlier mark must subsist until the decision on the opposition is taken, any subsequent loss of reputation is for the applicant to claim and prove.

The evidence must also show that the reputation was acquired for the goods for which the opponent has claimed reputation, namely:

Class 25: Clothing; shoes and footwear; headgear.

The opposition is directed against the following goods:

Class 24: *Textile material; bed linen and table linen; linen for the bed; kitchen linen; household linen; infants' bed linen; bath linen.*

Class 25: *Clothing; footwear; headgear; parts of clothing, footwear and headgear.*

In order to determine the mark's level of reputation, all the relevant facts of the case must be taken into consideration, including, in particular, the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it.


On 23/05/2024, the opponent submitted evidence to support this claim. As the opponent requested that certain commercial data contained in the evidence be kept confidential vis-à-vis third parties, the Opposition Division will describe the evidence only in the most general terms without divulging any such data. The evidence consists, in particular, of the following documents:

- Evidence 5: brand rankings (dated 2000 to 2020) showing the opponent's marks




'RALPH LAUREN', or as some of the world's most valuable and influential brands. In 2015, 'Ralph Lauren' was ranked 91 by the 'Interbrand Best Global Brands' with a brand value of USD 4 629 million, and in 2016 it was ranked 96 with a brand value of USD 4 092 million. The Reputation Institute ranked RALPH LAUREN 50th in its Global brand ranking for 2018 and 34th for 2019.

- Evidence 6-14: 'selling tools' and catalogues for 'POLO', referred to, for example,



as 'POLO' in relation to, inter alia, various articles of clothing, footwear and headgear, some of which also clearly display the mark 'POLO'. For example:



- Evidence 15 and 36: press clippings in English and French (e.g. from *The Guardian*, *Time*, *Elle*, *Grazia*, *Les Echos*, *Vogue*), dated between 2002 and 2022,

referring inter alia, to the history and 50th anniversary of 'Ralph Lauren', as well as



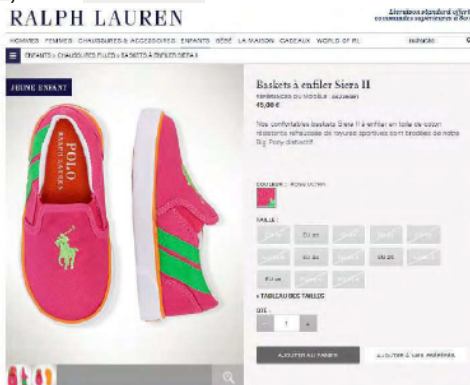
mentioning and showing images of the mark 'POLO'

- Evidence 16, 28 and 48: extracts dated between 2012 and 2024 from the opponent's various European websites (including ralphlauren.fr) showing, inter alia, clothing, headgear and footwear, with the earlier mark visible on them. For

example:



and



. Also shown are yearly visit numbers for the French website from 05/11/2011 to 15/08/2017 (several million per year).

- Evidence 17 and 46: information regarding the opponent's history (book and website) stating that it all started with a tie when a neckwear line under the name 'Polo' was launched in 1967.
- Evidence 18: an overview from the opponent's French website showing all 'Ralph Lauren' stores in Europe.
- Evidence 19, 39 and 42: advertising campaigns for 'POLO' in Europe, dated between 2006 and 2024. For example,



and in particular the 2019 EU advertising campaign 'Family is who you love',



(Paris),



(Munich)

and advertising in 2022 in the 'Opéra' subway (Paris)



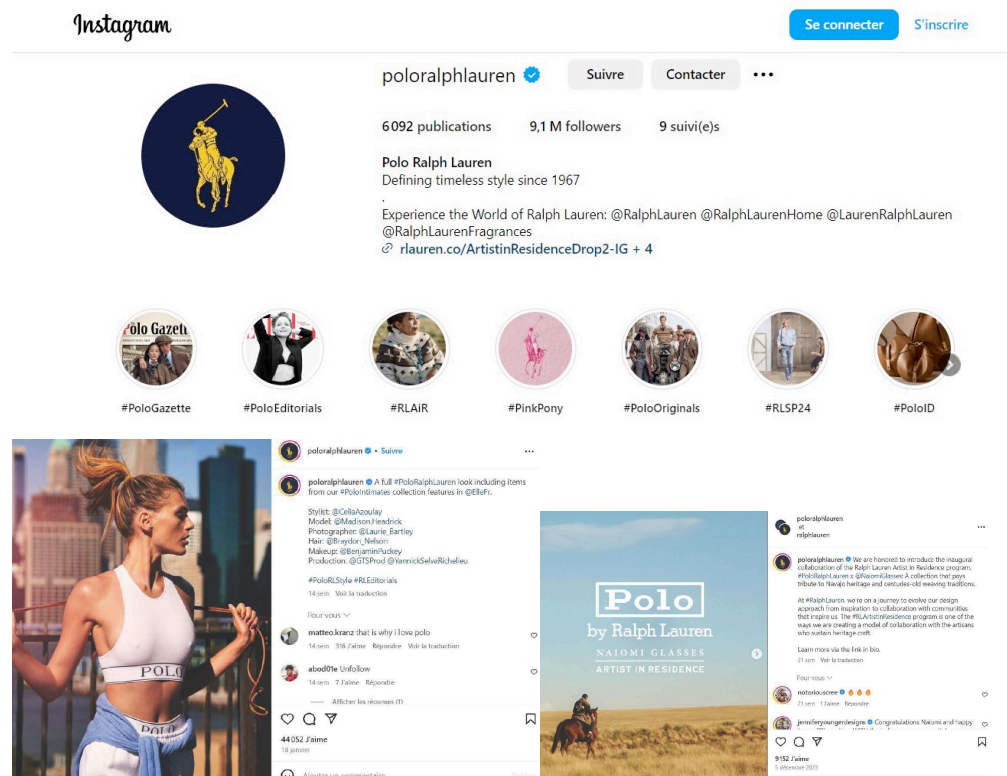
- Evidence 41: media plan for 'POLO' in France (2010-2014) giving an overview of publications in various magazines, newspapers and outdoor advertising.

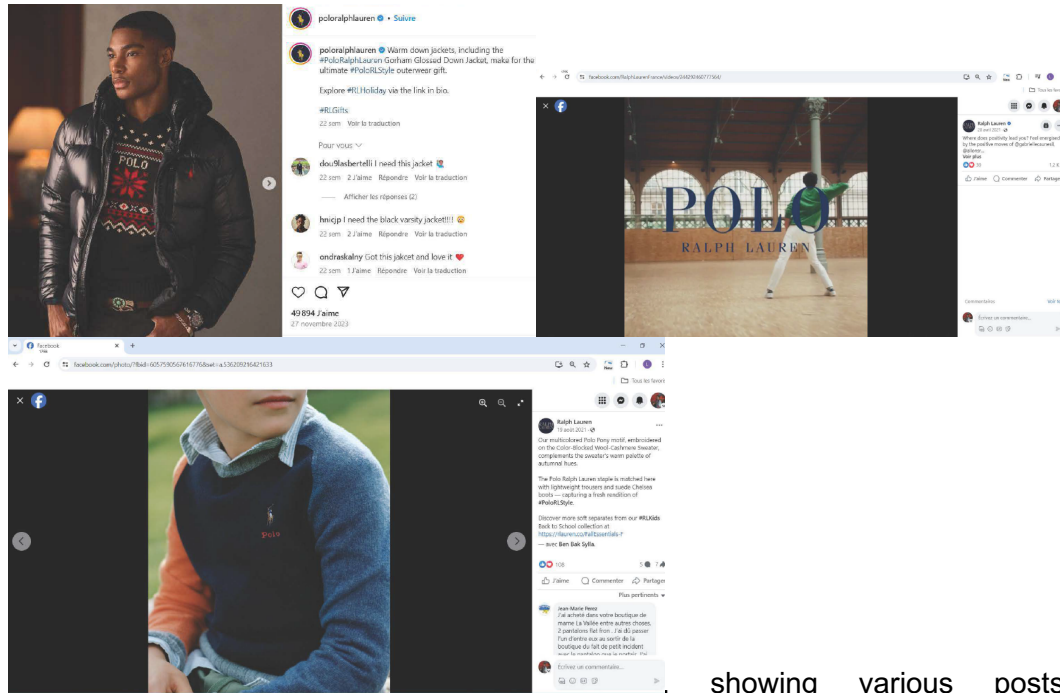
- Evidence 20, 22, 23, 40: information regarding very substantial sales figures, inter alia:
 - certified Polo Ralph Lauren net sales in Europe from 2005 to 2021;
 - branding units FY11 to FY18 wholesale 'POLO' sales in the European Union;
 - Polo Ralph Lauren advertising expenditures in Sweden and Europe for the financial years 1991 to 2003, including France;
 - Ralph Lauren EMEA marketing investments FY13 to 21 for POLO only in the European Union.
- Evidence 30-32, 38 and 49: content from the opponent's website and press articles (dated 2015-2023), including from French publications such as www.vogue.fr, relating to the opponent's sponsorship of the Wimbledon tennis tournament since



2006, the US Open tennis tournament, the Olympic Games – for which the opponent has dressed the official US team – and the Australian Open tournament.

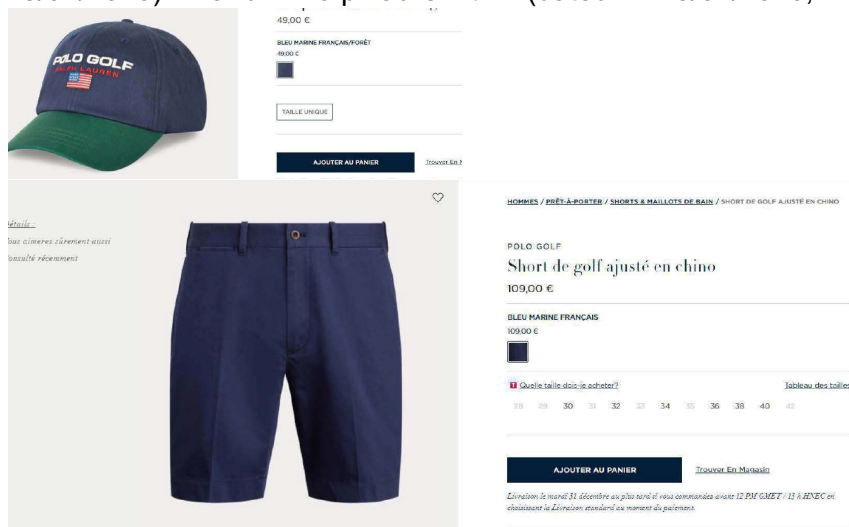
- Evidence 33-34: information (dated 2022-2023) regarding the use of the earlier mark on social media (Instagram and Facebook), such as





, showing various posts containing images of clothing displaying the earlier mark, with many likes and millions of followers.

- Evidence 43: evidence concerning 'POLO GOLF' from ralphlauren.fr (dated 20/12/2019), ralphlauren.es (dated 15/01/2020), ralphlauren.de (dated 15/01/2020) and ralphlauren.it (dated 15/01/2020; for example,

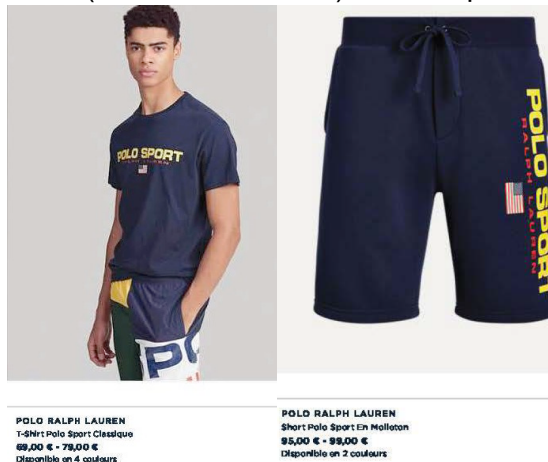


- Evidence 44: evidence concerning 'POLO TENNIS' from ralphlauren.fr (dated 14/04/2017), ralphlauren.es (dated 15/01/2020), ralphlauren.de (dated

15/01/2020), and ralphlauren.it (dated 15/01/2020). For example,



- Evidence 45: evidence concerning 'POLO SPORT' from ralphlauren.fr (dated 18/12/2019, 11/04/2021 and 03/05/2024), ralphlauren.es (dated 15/01/2020), ralphlauren.de (dated 15/01/2020) and ralphlauren.it (dated 15/01/2020; for



example,

- Evidence 47: various decisions from the EUIPO Opposition Division and Boards of Appeal, as well as the French Patent and Trade Mark Office (INPI), confirming the reputed character of the earlier mark.

Preliminary remark

The opponent has submitted, inter alia, evidence relating to the United Kingdom (UK) with a view to demonstrating the reputation of the earlier EUTM. However, it follows from Article 8(5) EUTMR, worded in the present tense, that the conditions for applying it must also be fulfilled at the time of taking the decision. As the UK is no longer a member of the EU, the evidence relating to its territory cannot be taken into account to prove reputation 'in the EU' (see Communication No 2/20 of the Executive Director of the Office of 10 September 2020 on the impact of the United Kingdom's withdrawal from the European Union on certain aspects of the practice of the Office, Section V 'Earlier rights in *inter partes* proceedings').

Assessment of the evidence

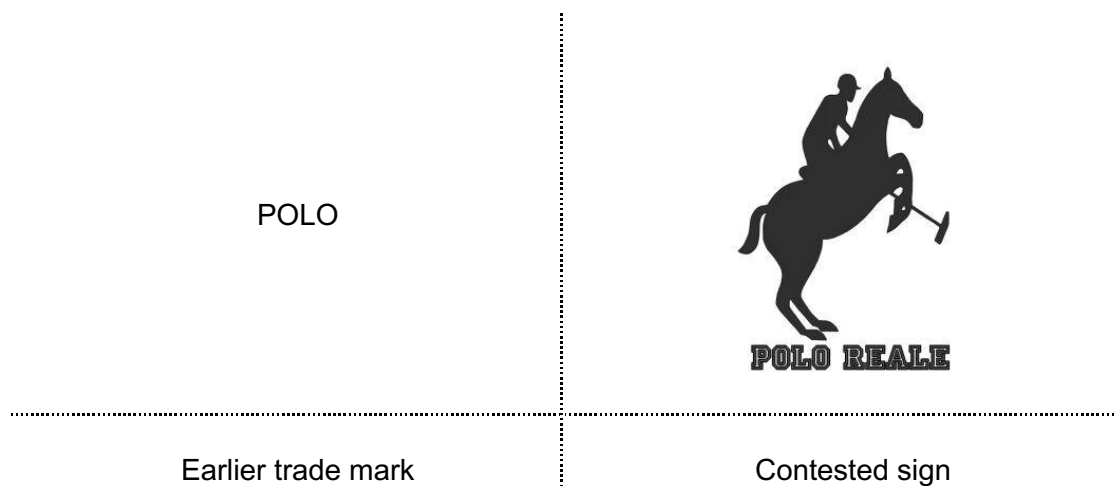
It is clear from the evidence that the earlier trade mark 'POLO' has been subject to long-standing and intensive use (since 1967), as shown in catalogues, promotional material, on websites and in press articles, and is generally known on the relevant market, where it enjoys a consolidated position among leading brands. This is also confirmed by the information provided on the brand rankings, showing that the opponent's brand is amongst the world's most valuable brands. Furthermore, the opponent has been the

official outfitter of important sporting events, such as the UK Wimbledon tennis tournament (since 2006), which has given the earlier mark significant exposure in Europe. Finally, the financial figures and advertising expenditure for Europe shown in the evidence are very substantial. Moreover, the opponent operates many 'Ralph Lauren' stores in Europe, located in major upscale street locations and upscale regional malls in large urban markets. Therefore, all this evidence shows, unequivocally, that the mark enjoys a high degree of recognition among the relevant public in the European Union, and in particular in France, which is a substantial part of the European Union considering the size of the relevant geographical area and the proportion of its overall population living there.

Although the evidence submitted also includes the marks 'RALPH LAUREN' and the polo player logo, there is no doubt that it proves intensive use of the earlier mark, which, while associated with the other marks in the evidence, also plays an independent role therein, given that it is used on many occasions on its own in a prominent way, such as on commercialised goods. In most of the evidence submitted, the verbal element 'POLO' appears in considerably larger letters than any of the other verbal elements used, such as 'Ralph Lauren'. Moreover, simultaneous use of independent marks does not necessarily affect the distinctive or reputed character of the individual marks if that independent character is perceived as such by the relevant public, which is clearly the case here. The earlier mark, even if used in relation to other marks, will be immediately recognised as an independent reputed element.

On the basis of the above, the Opposition Division concludes that the earlier mark 'POLO' has acquired a solid reputation in the European Union, in particular in France, in relation to *clothing; shoes and footwear; headgear*.

b) The signs



The relevant territory is the European Union.

The global appreciation of the visual, aural or conceptual similarity of the marks in question must be based on the overall impression given by the marks, bearing in mind, in particular, their distinctive and dominant components (11/11/1997, C-251/95, Sabèl, EU:C:1997:528, § 23).

The earlier sign is the word 'POLO' and is fully incorporated as the first verbal element in the contested sign.

When the sole component of the earlier mark is entirely included within the contested mark, the signs at issue are partially identical in such a manner as to create a certain impression of visual similarity in the relevant public's minds (20/06/2018, T-657/17, HPC POLO / POLO et al., EU:T:2018:358, § 30).

The fact that the earlier mark is reproduced at the beginning of the verbal elements in the contested sign is particularly relevant as consumers generally tend to focus on the beginning of a sign when they encounter a trade mark. This is because the public reads from left to right, which makes the part placed at the left of the sign (the initial part) the one that first catches the attention of the reader.

The verbal element 'POLO', present in both marks, will be perceived in all languages by a substantial part of the relevant public as primarily referring to the game of polo, which is played between two teams of players riding on horses. This meaning is reinforced in the contested sign by the depiction of a polo player on horseback. For the relevant goods in Classes 24 and 25, 'POLO' has a normal degree of distinctiveness given that, although some of these goods can be used for playing polo, there is nothing in their description to the effect that they are specifically designed for that purpose (14/06/2017, R 2368/2016-1, HPC POLO / POLO et al., § 29).

Although the verbal element 'REALE' might be perceived as referring or alluding to 'royal' or 'real' in certain languages – which has a laudatory character and therefore a lower degree of distinctiveness than 'polo' – a substantial part of the relevant public (and in particular of the French public) will perceive it as meaningless and distinctive.

Furthermore, the contested sign has additional figurative elements, comprising a polo player on horseback. These figurative elements are also distinctive in relation to the relevant goods in Classes 24 and 25 as nothing in their description indicates that they are designed for playing polo.

Due to its larger size and uppermost position, the figurative element is the dominant element in the contested sign. However, the verbal elements will still have an important impact on the relevant public since the public does not tend to analyse signs and will more easily refer to the signs in question by their verbal element than by describing their figurative elements (14/07/2005, T-312/03, SELENIUM-ACE / SELENIUM SPEZIAL A-C-E (fig.), EU:T:2005:289, § 37).

Visually, the signs coincide in the distinctive verbal element 'POLO', which constitutes the entire earlier mark and is the first verbal element in the contested sign. However, they differ in the additional verbal and figurative elements in the contested sign as described above.

Therefore, the signs are visually similar to at least a low degree.

Aurally, irrespective of the different pronunciation rules in different parts of the relevant territory, the pronunciation of the signs coincides in the sound of the verbal element 'POLO', present identically in both signs. The pronunciation differs in the sound of the contested sign's additional verbal element 'REALE'.

Therefore, the signs are aurally similar to at least an average degree.

Conceptually, reference is made to the previous assertions concerning the semantic content conveyed by the marks. As the signs will be associated with a similar meaning due to the presence of 'POLO' in both signs and the figurative element in the contested

sign, while the additional verbal element in the contested sign has a weak distinctive character or is meaningless, the signs are conceptually similar to a high degree.

Taking into account that the signs have been found similar in at least one aspect of the comparison, the examination of the existence of a risk of injury will proceed.

c) The 'link' between the signs

As seen above, the earlier mark is reputed and the signs are similar. In order to establish the existence of a risk of injury, it is necessary to demonstrate that, given all the relevant factors, the relevant public will establish a link (or association) between the signs. The necessity of such a 'link' between the conflicting marks in consumers' minds is not explicitly mentioned in Article 8(5) EUTMR but has been confirmed by several judgments (23/10/2003, C-408/01, Adidas, EU:C:2003:582, § 29, 31; 27/11/2008, C-252/07, Intel, EU:C:2008:655, § 66). It is not an additional requirement but merely reflects the need to determine whether the association that the public might establish between the signs is such that either detriment or unfair advantage is likely to occur after all of the factors that are relevant to the particular case have been assessed.

Possible relevant factors for the examination of a 'link' include (27/11/2008, C-252/07, Intel, EU:C:2008:655, § 42):

- the degree of similarity between the signs;
- the nature of the goods and services, including the degree of similarity or dissimilarity between those goods or services, and the relevant public;
- the strength of the earlier mark's reputation;
- the degree of the earlier mark's distinctive character, whether inherent or acquired through use;
- the existence of likelihood of confusion on the part of the public.

This list is not exhaustive and other criteria may be relevant depending on the particular circumstances. Moreover, the existence of a 'link' may be established on the basis of only some of these criteria.

The signs are visually similar to at least a low degree, aurally similar to at least an average degree and conceptually similar to a high degree since the earlier mark 'POLO' – which has an inherent normal degree of distinctiveness – is fully included in the contested sign.

The earlier mark has obtained a solid reputation in relation to *clothing; shoes and footwear; headgear*.

The contested goods are:

Class 24: *Textile material; bed linen and table linen; linen for the bed; kitchen linen; household linen; infants' bed linen; bath linen.*

Class 25: *Clothing; footwear; headgear; parts of clothing, footwear and headgear.*

The contested goods in Class 24 are *textile material* and bed, bath, table and kitchen linen goods. The *textile material* shows a clear connection with the opponent's *clothing* articles, as the latter are made of textile material. Furthermore, successful companies in the fashion sector nowadays regularly expand their product assortment to other goods, such as home textiles. From the evidence, it is also clear that the opponent has expanded into that area (towels and bed linen). Therefore, the linen goods also show a clear connection with the opponent's goods.

The contested goods in Class 25 are clothing, footwear, headgear and parts thereof. The contested *clothing*, *footwear*, *headgear* are identical to the opponent's goods. The parts of clothing, footwear and headgear also have a clear connection with the opponent's goods, as they belong to the same industry. They are raw materials used to manufacture the opponent's goods, and designers are very much involved in the design and selection of them.

Therefore, taking into account and weighing up all the relevant factors – especially the solid reputation of the earlier mark, the similarity between the signs and the clear connection between the relevant goods – it must be concluded that, when encountering the contested mark, the relevant consumers in the European Union and particularly in France will be likely to associate it with the earlier sign, that is to say, establish a mental 'link' between the signs. However, although a 'link' between the signs is a necessary condition for further assessing whether detriment or unfair advantage are likely, the existence of such a link is not sufficient, in itself, for a finding that there may be one of the forms of damage referred to in Article 8(5) EUTMR (26/09/2012, T-301/09, CITIGATE / CITICORP et al., EU:T:2012:473, § 96).

d) Risk of injury

Use of the contested mark will fall under Article 8(5) EUTMR when any of the following situations arise:

- it takes unfair advantage of the distinctive character or the repute of the earlier mark;
- it is detrimental to the repute of the earlier mark;
- it is detrimental to the distinctive character of the earlier mark.

Although detriment or unfair advantage may be only potential in opposition proceedings, a mere possibility is not sufficient for Article 8(5) EUTMR to be applicable. While the proprietor of the earlier mark is not required to demonstrate actual and present harm to its mark, it must 'adduce prima facie evidence of a future risk, which is not hypothetical, of unfair advantage or detriment' (06/07/2012, T-60/10, ROYAL SHAKESPEARE / RSC-ROYAL SHAKESPEARE COMPANY et al., EU:T:2012:348, § 53).

It follows that the opponent must establish that detriment or unfair advantage is probable, in the sense that it is foreseeable in the ordinary course of events. For that purpose, the opponent should file evidence, or at least put forward a coherent line of argument demonstrating what the detriment or unfair advantage would consist of and how it would occur, that could lead to the prima facie conclusion that such an event is indeed likely in the ordinary course of events.

The opponent claims that use of the contested trade mark would take unfair advantage of the distinctive character or the repute of the earlier trade mark and be detrimental to the distinctive character of the earlier trade mark.

Unfair advantage (free-riding)

Unfair advantage in the context of Article 8(5) EUTMR covers cases where there is clear exploitation and 'free-riding on the coat-tails' of a famous mark or an attempt to trade upon its reputation. In other words, there is a risk that the image of the mark with a reputation or the characteristics which it projects are transferred to the goods and services covered by the contested trade mark, with the result that the marketing of those goods and services is made easier by their association with the earlier mark with a reputation (06/07/2012, T-60/10, ROYAL SHAKESPEARE / RSC- ROYAL SHAKESPEARE COMPANY et al., EU:T:2012:348, § 48; 22/03/2007, T-215/03, VIPS / VIPS, EU:T:2007:93, § 40).

The opponent bases its claim on the following.

- All the evidence leads to the conclusion that unfair advantage is probable in the sense that it is foreseeable in the ordinary course of events. Indeed, the evidence shows that 'POLO' has been the opponent's iconic symbol for many years, synonymous with chic, luxury, prestige and quality.
- The 'POLO' trade mark reflects an image of quality and prestige, which could positively influence the consumer's choice.
- The use of the contested sign on goods in Classes 24 and 25 would clearly take unfair advantage of this repute, in order to benefit from the power of attraction, the reputation and the prestige of the 'POLO' trade mark and to exploit, without paying any financial compensation, the marketing efforts expended by the opponent to create and maintain the trade mark's image.

According to the Court of Justice of the European Union

... as regards injury consisting of unfair advantage taken of the distinctive character or the repute of the earlier mark, in so far as what is prohibited is the drawing of benefit from that mark by the proprietor of the later mark, the existence of such injury must be assessed by reference to average consumers of the goods or services for which the later mark is registered, who are reasonably well informed and reasonably observant and circumspect.

(27/11/2008, C-252/07, Intel, EU:C:2008:655, § 36.)

Taking into account the contested goods in Classes 24 and 25, the relevant public is the public at large and a professional public, and the degree of attention is average.

To determine whether the use of a sign takes unfair advantage of the distinctive character or the repute of a mark, it is necessary to undertake an overall assessment, which takes into account all the factors relevant to the circumstances of the case (10/05/2007, T-47/06, NASDAQ (fig.) / NASDAQ, EU:T:2007:131, § 53, 12/03/2009, C-320/07 P, NASDAQ (fig.) / NASDAQ, EU:C:2009:146; 23/10/2003, C-408/01, Adidas, EU:C:2003:582, § 29, 30, 38; 27/11/2008, C-252/07, Intel, EU:C:2008:655, § 57, 58, 66; 24/03/2011, C-552/09 P, TiMiKiNDERJOGHURT (fig.) / KINDER, EU:C:2011:177, § 53).

The applicant's intention is not a material factor. Taking unfair advantage of the distinctiveness or the repute of a trade mark may be a deliberate decision, for example, where there is clear exploitation and free-riding on the coat-tails of a famous mark, or an attempt to trade upon the reputation of a famous mark. However, taking unfair advantage does not necessarily require a deliberate intention to exploit the goodwill attached to someone else's trade mark.

The concept of taking unfair advantage 'concerns the risk that the image of the mark with a reputation or the characteristics which it projects are transferred to the goods covered by the mark applied for, with the result that the marketing of those goods is made easier by that association with the earlier mark with a reputation' (19/06/2008, T-93/06, MINERAL SPA / SPA (fig.) et al., EU:T:2008:215, § 40; 22/03/2007, T-215/03, VIPS / VIPS, EU:T:2007:93, § 40; 30/01/2008, T-128/06, CAMELO (FIG.) / CAMEL (FIG.) ET AL., EU:T:2008:22, § 46).

The earlier mark has obtained a solid reputation and has become an attractive and powerful brand in the European Union. The evidence submitted by the opponent shows that the earlier mark has a positive image and is associated with high quality, luxury and elegance.

As explained in section c), considering the reputation of the earlier mark, the similarity between the signs, and the fact that the conflicting goods have a connection, the relevant public will make a link between the marks. This link will create an association that will produce a commercial benefit for the applicant as the image of high quality, luxury and elegance will be easily transposed to the applicant's goods. Therefore, there is a high probability that the use of the contested mark may lead to free-riding, that is to say, it would take unfair advantage of the reputation of the earlier mark and the considerable investments undertaken by the opponent to achieve that reputation. The use of the contested mark could also lead to the perception that the applicant is associated with or belongs to the opponent and, therefore, could facilitate the marketing of the relevant goods.

On the basis of the above, the Opposition Division concludes that the contested trade mark is likely to take unfair advantage of the distinctive character or the repute of the earlier trade mark.

Other types of injury

The opponent also argues that use of the contested trade mark would be detrimental to the distinctive character of the earlier trade mark.

As seen above, the existence of a risk of injury is an essential condition for Article 8(5) EUTMR to apply. The risk of injury may be of three different types. For an opposition to be well founded in this respect, it is sufficient if only one of these types is found to exist. In the present case, as seen above, the Opposition Division has already concluded that the contested trade mark would take unfair advantage of the distinctive character or repute of the earlier trade mark. It follows that there is no need to examine whether or not other types also apply.

e) Defence of the applicant

The applicant submitted several extracts from EUTM registrations containing the verbal element 'POLO'. However, no arguments were submitted and the description of the documents only contained the very general indication 'similar EUTM which constitute a precedent'. Since it is not clear what the applicant intended to prove with this evidence, it is dismissed.

f) Conclusion

Considering all the above, the opposition is well founded under Article 8(5) EUTMR. Therefore, the contested trade mark must be rejected for all the contested goods.

Given that the opposition is entirely successful under Article 8(5) EUTMR, it is not necessary to examine the remaining grounds and earlier rights on which the opposition was based.

COSTS

According to Article 109(1) EUTMR, the losing party in opposition proceedings must bear the fees and costs incurred by the other party.

Since the applicant is the losing party, it must bear the opposition fee as well as the costs incurred by the opponent in the course of these proceedings.

According to Article 109(1) and (7) EUTMR and Article 18(1)(c)(i) EUTMR, the costs to be paid to the opponent are the opposition fee and the costs of representation, which are to be fixed on the basis of the maximum rate set therein.

**The Opposition Division**

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According to Article 67 EUTMR, any party adversely affected by this decision has a right to appeal against this decision. According to Article 68 EUTMR, notice of appeal must be filed in writing at the Office within two months of the date of notification of this decision. It must be filed in the language of the proceedings in which the decision subject to appeal was taken. Furthermore, a written statement of the grounds for appeal must be filed within four months of the same date. The notice of appeal will be deemed to have been filed only when the appeal fee of EUR 720 has been paid.