

Provisional text

JUDGMENT OF THE COURT (Third Chamber)

26 March 2026 (*)

(Reference for a preliminary ruling – Trade marks – Directive 2008/95/EC – Article 3(1)(g) – Grounds for refusal of registration or invalidity of a trade mark – Trade mark of such a nature as to deceive the public – Luxury leather goods – Trade mark which includes a number perceived by the relevant public as indicating the year of establishment of a business – Evocation, because that year is the distant past, of long-standing know-how bestowing on the product concerned a perceived guarantee of quality and a prestigious image – Misleading indication as to the characteristics of the product)

In Case C-412/24,

REQUEST for a preliminary ruling under Article 267 TFEU from the Cour de cassation (Court of Cassation, France), made by decision of 5 June 2024, received at the Court on 10 June 2024, in the proceedings

Fauré Le Page Maroquinier SAS,

Fauré Le Page Paris SAS

v

Goyard ST-Honoré SAS,

THE COURT (Third Chamber),

composed of C. Lycourgos, President of the Chamber, O. Spineanu-Matei, S. Rodin (Rapporteur), N. Piçarra and N. Fenger, Judges,

Advocate General: N. Emiliou,

Registrar: A. Calot Escobar,

having regard to the written procedure,

after considering the observations submitted on behalf of:

- Fauré Le Page Maroquinier SAS and Fauré Le Page Paris SAS, by E. de Lamaze, avocat,
- Goyard ST-Honoré SAS, by M. Le Guerer, avocat,
- the French Government, by B. Dourthe, T. Stéhelin and E. Timmermans, acting as Agents,
- the European Commission, by C. Auvret and P. Němečková, acting as Agents,

after hearing the Opinion of the Advocate General at the sitting on 27 November 2025,

gives the following

Judgment

1 This request for a preliminary ruling concerns the interpretation of Article 3(1)(g) of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks (OJ 2008 L 299, p. 25).

2 The request has been made in proceedings between Fauré Le Page Maroquinier SAS and Fauré Le Page Paris SAS, on the one hand, and Goyard ST-Honoré SAS, on the other, concerning the validity of two national trade marks of which Fauré Le Page Paris is the proprietor, on account of their allegedly deceptive nature.

Legal context

European Union law

3 Directive 2008/95 was repealed and replaced, with effect from 15 January 2019, by Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ 2015 L 336, p. 1). However, taking into account the date of the facts in the main proceedings, Directive 2008/95 remains applicable.

4 Article 3(1)(g) of Directive 2008/95, entitled ‘Grounds for refusal or invalidity’, provides:

‘The following shall not be registered or, if registered, shall be liable to be declared invalid:

...

(g) trade marks which are of such a nature as to deceive the public, for instance as to the nature, quality or geographical origin of the goods or service’.

French law

5 Article L- 711-3(c) of the code de la propriété intellectuelle (Intellectual Property Code), in the version applicable to the main proceedings, provides:

‘The following signs may not be adopted as a trade mark or element of a trade mark:

...

(c) those which are likely to deceive the public, in particular as to the nature, quality or geographical origin of the goods or service.’

The dispute in the main proceedings and the questions referred for a preliminary ruling

6 Maison Fauré Le Page was a company incorporated under French law, which had engaged in the purchase and sale of arms, ammunition and leather accessories in Paris (France) since 1716. On 27 November 1992, that company was dissolved, which led to the transfer of its assets to its sole shareholder, the company Saillard.

- 7 Fauré Le Page Paris is a company incorporated under French law and registered in the registre du commerce et des sociétés de Paris (Register of Trade and Companies, Paris, France) since 14 October 2009. On 29 October 2009, it acquired, from Saillard, the French trade mark ‘Fauré Le Page’, which the latter had filed on 5 June 1989, covering, inter alia, ‘edged weapons; firearms and their parts; ammunition and projectiles; explosives; shooting aids; cartridge boxes; leather and imitations of leather; trunks and suitcases’.
- 8 On 17 June 2011, Fauré Le Page Paris lodged applications for the French trade marks ‘Fauré Le Page Paris 1717’ covering, inter alia, the goods ‘leather and imitations of leather; trunks and suitcases; travelling bags; handbags’.
- 9 On 26 October 2012, the company Goyard ST-Honoré, which manufactures and markets travel goods and leather goods, brought proceedings against Fauré Le Page Paris and Fauré Le Page Maroquinier (together, ‘the Fauré Le Page companies’), the latter in its capacity as proprietor of the Fauré Le Page Paris 1717 trade marks, seeking cancellation of those trade marks on the ground that they are deceptive.
- 10 By judgment of 4 October 2016, the cour d’appel de Paris (Court of Appeal, Paris, France) dismissed the appeal brought by Goyard ST-Honoré against the judgment at first instance which had dismissed its claims.
- 11 By judgment of 27 June 2018, the Cour de cassation (Court of Cassation, France) set aside that judgment.
- 12 By judgment of 23 November 2021, delivered after the case was referred back to it by the Cour de cassation (Court of Cassation), the cour d’appel de Paris (Court of Appeal, Paris) declared the contested marks invalid on account of a serious risk that the consumer would be deceived.
- 13 In that judgment, the cour d’appel de Paris (Court of Appeal, Paris) held that the words ‘Paris 1717’ in the contested marks evoked the place and date of establishment of Maison Fauré Le Page and were such as to lead the public to believe that there had been continuity of operations since 1717 and that the know-how of the original undertaking had been transmitted to Fauré Le Page Paris, which constituted, for the relevant public, a guarantee of the quality of the goods covered by those marks. That court also noted that Maison Fauré Le Page had ceased its activity of purchasing and selling arms, ammunition and accessories in 1992, with the result that Fauré Le Page Paris, a company established in 2009, had not continued the activity of the original undertaking. That court added that, for the average consumer of luxury leather goods, such as those marketed by the Fauré Le Page companies, the presence of centuries-old know-how was a decisive factor in his or her decision to purchase the goods in question.
- 14 The Fauré Le Page companies brought an appeal on a point of law against that judgment before the Cour de cassation (Court of Cassation), which is the referring court.
- 15 Before that court, the Fauré Le Page companies maintain, inter alia, that, in order for a trade mark to be regarded as deceptive, it must be of such a nature as to deceive the consumer as to the characteristics of the goods or services covered by that mark, and not those of its proprietor. They submit that the contested marks do not describe any specific characteristic of the leather goods covered by those marks; they merely convey, at most, a general idea of quality, with the result that they cannot be regarded as deceptive, for the purposes of Article 3(1)(g) of Directive 2008/95, transposed into French law by Article L-711-3(c) of the Intellectual Property Code.
- 16 The referring court considers that the interpretation adopted by the cour d’appel de Paris (Court of Appeal, Paris) – according to which the conveyance, by the sign filed as a trade mark, of false

information concerning the undertaking which markets the goods or services covered by that mark, from which the average consumer infers that those goods or services have a particular quality or prestige, is deceptive – could be compatible with Article 3(1)(g) of Directive 2008/95.

17 Furthermore, according to that court, the deceptive nature of a trade mark is not limited to a misleading message concerning solely the characteristics of the goods or services covered by that mark, but may also result from characteristics specific to the undertaking which is the proprietor of the mark, in particular its age, where the consumer is likely to infer from the incorrect information thus conveyed that the product bearing that mark has certain qualities or enjoys a certain prestige, capable of influencing his or her decision to purchase it.

18 It notes in that regard that, according to the judgment of 23 April 2009, *Copad* (C-59/08, EU:C:2009:260, paragraphs 24 to 26), the quality of luxury goods is assessed not only in the light of their material characteristics, but also in the light of the allure and prestigious image which bestows on them an aura of luxury.

19 Furthermore, while acknowledging that the judgment of 30 March 2006, *Emanuel* (C-259/04, EU:C:2006:215), may be interpreted as meaning that a trade mark is not of such a nature as to deceive the public if the allegedly false information which it conveys concerns the undertaking which manufactures the goods and not the goods themselves, the referring court notes that that judgment concerned the specific situation of a trade mark consisting of the name of a designer, with the result that the considerations set out by the Court of Justice in that judgment cannot necessarily be extended beyond the particular circumstances of that case.

20 According to the referring court, it is apparent from the findings of the cour d'appel de Paris (Court of Appeal, Paris) that the goods marketed by the Fauré Le Page companies fall within the luxury leather goods sector, that the contested marks are perceived by the relevant public as claiming, incorrectly, that their proprietor has been active in that sector for several centuries and that the incorrect information thus conveyed is liable to influence the decision of consumers to purchase the goods covered by one of those marks, since consumers of luxury leather goods attach particular importance to the history and age of the undertaking which markets them and infer that those articles enjoy a particular quality or prestige.

21 In those circumstances the Cour de cassation (Court of Cassation) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

‘(1) Must Article 3(1)(g) of [Directive 2008/95] be interpreted as meaning that a reference to a fanciful date in a trade mark conveying false information on the age, reliability and know-how of the manufacturer of the goods and, consequently, on one of the intangible characteristics of those goods is sufficient to establish the existence of actual deceit or a sufficiently serious risk that the consumer will be deceived?

(2) If the answer to the first question is in the negative, must that article be interpreted as meaning:

(a) that a trade mark may be regarded as deceptive where there is a likelihood that consumers of the goods and services designated by the trade mark will believe that the proprietor of that trade mark has been producing those goods for centuries, thereby conferring on them a prestigious image, whereas that is not the case?

(b) that, in order to establish the existence of actual deceit or a sufficiently serious risk that the consumer will be deceived, on which a finding that a trade mark is deceptive depends, the

trade mark must constitute a sufficiently specific designation of potential characteristics of the goods and services for which it is registered, so that the targeted consumer is led to believe that the goods and services possess certain characteristics which they do not in fact possess?’

Consideration of the questions referred

- 22 By its questions, which it is appropriate to examine together, the referring court asks, in essence, whether Article 3(1)(g) of Directive 2008/95 must be interpreted as meaning that, where a trade mark includes a number which is likely to be perceived by the relevant public as indicating the year of establishment of a business and evokes, because that year is in the distant past, long-standing know-how bestowing a perceived guarantee of quality and a prestigious image on the goods for which the mark is registered, even though no such long-standing know-how actually exists, it may be inferred that that mark is of such a nature as to deceive the public, within the meaning of that provision.
- 23 Under Article 3(1)(g) of Directive 2008/95, trade marks which are of such a nature as to deceive the public, for instance as to the nature, quality or geographical origin of the goods or service, must not be registered.
- 24 It should also be borne in mind that, in order to find, in accordance with that provision, that a mark has been registered in breach of the ground for refusal relating to the risk of deception, it must be established that the sign filed for the purposes of registration as a trade mark creates per se such a risk, the subsequent management of that sign being irrelevant in this respect (see, to that effect, judgment of 8 June 2017, *W. F. Gözze Frottierweberei and Gözze*, C-689/15, EU:C:2017:434, paragraphs 55 and 56).
- 25 Moreover, invalidity on the basis of that provision presupposes the existence of actual deceit or a sufficiently serious risk that the public will be deceived (see, to that effect, judgments of 30 March 2006, *Emanuel*, C-259/04, EU:C:2006:215, paragraph 47, and of 8 June 2017, *W. F. Gözze Frottierweberei and Gözze*, C-689/15, EU:C:2017:434, paragraph 54).
- 26 As the Advocate General stated, in essence, in points 33 to 41 of his Opinion, and as is apparent both from the wording of Article 3(1)(g) of Directive 2008/95, which contains an illustrative list of characteristics of goods or services, and from the objective of that provision, which is to target deception inherent in the sign registered as a trade mark or filed for that purpose, a finding that a mark is ‘of such a nature as to deceive the public’, within the meaning of that provision, must be based on deception in relation to a characteristic of the goods or services covered by that mark. Accordingly, the ground for refusal of registration and invalidity set out in Article 3(1)(g) of Directive 2008/95 cannot be applied, inter alia, in cases where the mark at issue is of such a nature as to deceive the public in relation to a characteristic of its proprietor and not in relation to a characteristic of the goods or services which it covers.
- 27 In the present case, although, as is apparent from paragraph 13 above, the cour d’appel de Paris (Court of Appeal, Paris) held that a sign associating a year with a town is likely to evoke, in the mind of the relevant public, the date and place of establishment of the proprietor of the mark, those two elements do not, as such, constitute characteristics of the goods marketed by the Fauré Le Page companies.
- 28 Nevertheless, as is apparent from paragraph 20 above, that court also found that those goods fall within the luxury leather goods sector, that the contested marks are perceived by the relevant public as claiming, incorrectly, that their proprietor been active in that sector for several centuries and that the

incorrect information thus conveyed is liable to influence the decision of consumers to purchase goods bearing one of those marks, since consumers of luxury leather goods attach importance to the history and age of the undertaking which markets them and infer from these that those articles have a particular level of quality and prestige.

- 29 As the Advocate General observed, in essence, in point 43 of his Opinion, the inclusion, in a trade mark, of a number which is perceived by the relevant public as the year of establishment of a business may in certain cases evoke particular know-how, which is seen as a guarantee of the quality of the product covered by that mark and contributes to bestowing a prestigious image on it. Since the quality of the product is one of the characteristics referred to by way of example in Article 3(1)(g) of Directive 2008/95 and that quality may, in the field of luxury goods, also result from the allure and prestigious image of the product (see, to that effect, judgment of 23 April 2009, *Copad*, C-59/08, EU:C:2009:260, paragraph 24), the existence of actual deceit or a sufficiently serious risk that the public will be deceived, within the meaning of that provision, may be found where such long-standing know-how and, accordingly, the guarantee of quality and prestigious image associated with or resulting from it do not actually exist.
- 30 It is for the national court to assess, in the light of all the circumstances of the case, whether the number mentioned in the marks whose cancellation is sought is perceived by the relevant public as the year of establishment of a business and evokes particular know-how, such as long-standing know-how, bestowing a perceived guarantee of quality and a prestigious image on the product for which the mark is registered. In that context, the national court must examine each of the marks as a whole, taking into account, in particular, the presence in those marks, in addition to the number 1717, of the word ‘Paris’ and the message which they convey to the relevant public.
- 31 In the light of all the foregoing considerations, the answer to the questions referred is that Article 3(1)(g) of Directive 2008/95 must be interpreted as meaning that, where a trade mark includes a number which is likely to be perceived by the relevant public as indicating the year of establishment of a business and evokes, because that year is in the distant past, long-standing know-how bestowing a perceived guarantee of quality and a prestigious image on the goods for which the mark is registered, even though no such long-standing know-how actually exists, it may be inferred that that mark is of such a nature as to deceive the public, within the meaning of that provision.

Costs

- 32 Since these proceedings are, for the parties to the main proceedings, a step in the action pending before the referring court, the decision on costs is a matter for that court. Costs incurred in submitting observations to the Court, other than the costs of those parties, are not recoverable.

On those grounds, the Court (Third Chamber) hereby rules:

Article 3(1)(g) of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks

must be interpreted as meaning that, where a trade mark includes a number which is likely to be perceived by the relevant public as indicating the year of establishment of a business and evokes, because that year is in the distant past, long-standing know-how bestowing a perceived guarantee of quality and a prestigious image on the goods for which the mark is registered, even though no such long-standing know-how actually exists, it may be inferred that that mark is of such a

nature as to deceive the public, within the meaning of that provision.

[Signatures]

* Language of the case: French.