

OPPOSITION No B 3 247 840

Chanel SAS, société par actions simplifiée, 135, avenue Charles de Gaulle, 92200 Neuilly sur Seine, France (opponent), represented by **Jérôme Passa**, 32 rue Fortuny, 75017 Paris, France (professional representative)

a g a i n s t

Sarah Mohammed Al Rajhi Trading Company, 7-23731-6302-2552, North Obhor District, King Abdul Aziz Road, Jeddah, Saudi Arabia (applicant), represented by **Răducu Turtoi**, Nerva Traian 3, Et.8, Cam 13, Sector 3, 031041 Bucharest, Romania (professional representative).

On 06/10/2026, the Opposition Division takes the following

DECISION:

1. Opposition No B 3 247 840 is upheld for all the contested goods.
2. European Union trade mark application No 19 203 575 is rejected in its entirety.
3. The applicant bears the costs, fixed at EUR 620.

REASONS

On 25/09/2025, the opponent filed an opposition against all the goods of European Union trade mark application No 19 203 575 'MATCH NUMBER 5' (word mark). The opposition is based on French trade mark registration No 1 293 767 'N° 5' (word mark). The opponent invoked Article 8(1)(b) EUTMR and Article 8(5) EUTMR.

REPUTATION — ARTICLE 8(5) EUTMR

In relation to Article 8(5) EUTMR, the opponent invoked earlier French trade mark registration No 1 293 767.

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 17/06/2025. 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 3: *Perfumery products; cosmetics.*

The opposition is directed against the following goods:

Class 3: *Perfumes; amber [perfume]; extracts of flowers [perfumes]; oils for perfumes and scents; cosmetics; cosmetic creams; cosmetic dyes; eyebrow pencils; cosmetic pencils for cheeks; make-up pencils; cosmetics for animals; cosmetics for children; eyebrow cosmetics; adhesives for cosmetic purposes; almond milk for cosmetic purposes; almond oil for cosmetic purposes; astringents for cosmetic purposes; basma [cosmetic dye]; bath tea for cosmetic purposes; body paint for cosmetic purposes; collagen preparations for cosmetic purposes; cooling sprays for cosmetic purposes; cosmetic preparations for bath and shower; cosmetic preparations for eyelashes; cosmetic preparations for skin care; cosmetic preparations for slimming purposes; cosmetic stamps, filled; cotton swabs for cosmetic purposes; cotton wool for cosmetic purposes; decorative transfers for cosmetic purposes; henna [cosmetic dye]; greases for cosmetic purposes; hydrogen peroxide for cosmetic purposes; herbal extracts for cosmetic purposes; lotions for cosmetic purposes; massage candles for cosmetic purposes; oils for cosmetic purposes; petroleum jelly for cosmetic purposes; pomades for cosmetic*

purposes; serums for cosmetic purposes; sheet masks for cosmetic purposes; skin hydrators for cosmetic purposes; sun-tanning preparations [cosmetics]; sun protecting creams [cosmetics]; tissues impregnated with cosmetic lotions; toners for cosmetic purposes; aloe vera preparations for cosmetic purposes; bleaching preparations [decolorants] for cosmetic purposes; gel eye patches for cosmetic purposes; make-up palettes containing cosmetics; liquid latex body paint for cosmetic purposes; toiletries; toilet water; soap; cleansing milk for toilet purposes; oils for toilet purposes; colorants for toilet purposes; douching preparations for personal sanitary or deodorant purposes [toiletries]; deodorants for human beings or for animals; deodorant soap; antiperspirants [toiletries]; shaving preparations; shaving soap; after-shave lotions; shaving stones [astringents]; lipsticks; lipstick cases; make-up; face powder; make-up removing preparations; cotton wool impregnated with make-up removing preparations; tissues impregnated with make-up removing preparations; ethereal oils; aromatics [essential oils]; essential oils of cedarwood; essential oils for aromatherapy use; essential oils of citron; mint essence [essential oil]; terpenes [essential oils]; essential oil-based creams for aromatherapy use; food flavourings [essential oils]; flavourings for beverages [essential oils].

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 10/02/2026 the opponent submitted the following evidence:

Appendix 1: Extract of the website www.chanel.com/fr/parfums. It shows different types of perfumes depicting 'N° 5', e.g. 'THE ORIGINAL N° 5', 'THE SENSUAL N° 5', 'THE WOODY N° 5', 'THE AIRY N° 5', 'THE FRESH N° 5'.



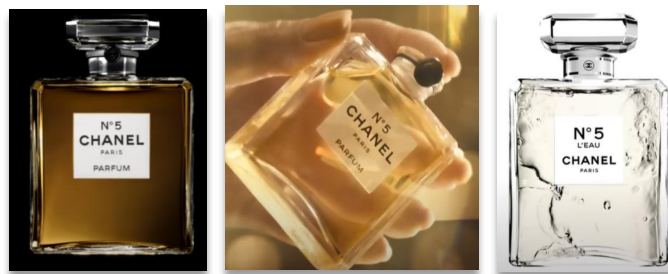
Appendix 2: Extract of the website wikipedia.org. It references the perfume 'N° 5' history, inspiration, name, bottle design, advertising and marketing, and the scent. According to it, Chanel No. 5 was the first perfume launched by French couturier Gabrielle "Coco" Chanel in 1921. The scent formula for the fragrance was compounded by French-Russian chemist and perfumer Ernest Beaux. The design of its bottle has been an important part of the product's branding. Coco Chanel was the first face of the fragrance, appearing in the advertisement published by Harper's Bazaar in 1937.

Appendix 3: Screenshots of CHANEL's YouTube account in French. According to the opponent, they are 'advertising films for "N° 5"'. The videos are dated from 2011, 2012, 2016, 2018 and 2020. The titles of the videos refer to various celebrities, such as:

- N°5, the Film with Gisele Bündchen, Michiel Huisman and Lo-Fang - CHANEL Fragrance

- Marilyn and N°5 (30" version) - Inside CHANEL
- N°5, the Film with Brad Pitt: There You Are - CHANEL Fragrance
- L'Eau N°5, the Film with Lily-Rose Depp - CHANEL Fragrance
- CHANEL N°5, the film Train de Nuit with Audrey Tautou - CHANEL Fragrance
- N°5, the Film with Brad Pitt: Wherever I Go - CHANEL Fragrance
- CHANEL N°5, the film with Nicole Kidman - CHANEL Fragrance
- CHANEL N°5, the Film with Marion Cotillard — CHANEL Fragrance

The self-explanatory content shows videos relating to various N°5 perfumes.



Appendix 4: Undated advertising campaigns for “N° 5” involving famous models, actresses and actors. The documents are undated but some of the actors shown, such as Brad Pitt, are also mentioned in, inter alia, the videos contained in Appendix 3.

Appendix 5: Printouts from French national press about the perfume ‘N° 5’. Although the content is in French, the self-explanatory content allows the following to be extracted

- Article titled ‘*Le fabuleux destin du N°5*’ (Le Nouvel Observateur, April 2009). It shows pictures dated from 1954 showing Marylin Monroe with the perfume Chanel ‘N° 5’. It further shows various celebrities advertising the perfume throughout the years.



- Article titled ‘*Il éta it une fois...LE N°5 DE CHANEL*’ (Cosmopolitan France, October, 2021). In French, however, from the self-explanatory content it can be concluded that it refers to story of the perfume ‘N°5’ from 1910 to 2020, showing various celebrities advertising the perfume. Most recent reference is to Marion Cotillard for the year 2020.



- Article titled '*Chanel dévoile une nouvelle version de l'incontournable N°5 inspiré par Marilyn Monroe*' (Vogue France, 2023). It shows a photo of Marilyn Monroe holding a bottle of the perfume 'N° 5'.

Appendix 6: Various undated photographs from outdoor campaigns for 'N° 5' featuring famous actress Marion Cotillard. From the pictures it can be concluded that several of them were taken in France, particularly in Paris outside Galeries Lafayette and La Samaritaine. According to the opponent, such campaigns took place in 2021 and 2022.

Appendix 7: Press articles, in French. The opponent provided the following partial translations:

- Article titled '*L'éternel parfum de femme – Flacons mythiques*' (Newspaper Le Monde, February 2004): Women's eternal fragrance - Mythical bottles: for seventy-five years, Chanel N°5, popularized by Marilyn Monroe in 1954, has bewitched generations of women. An unchanged formula, a sober bottle. Neither war nor fashion has altered the "perfume of the century", which has outlived its creator and remains the world's best-selling fragrance. Chanel N°5 is THE perfume par excellence. It's a myth. But not a wrinkle. It's still the world's bestselling "juice", according to the Financial Times.
- Article titled '*Le fabuleux destin du N°5*' (*Le nouvel observateur*, 9-15th April 2009): The fabulous destiny of N°5: the world's best-selling fragrance changes its muse. An opportunity to look back at the destiny of a monument.
- Article titled '*Chanel N°5, 90 ans et toujours en tête des ventes*' (The newspaper *Le Parisien*, 25 April 2011): Chanel N°5, 90 years old and still top of the sales charts. The bottle has remained a benchmark over the years.
- Article titled '*Les grands parfums*' (Cosmopolitan, 2015). A legendary fragrance is one that has lasted for decades without taking on a wrinkle. In the face of changes in society, trends and tastes, the mythical perfume doesn't go out of style and continues to please because it has something special. At once traditional and modern, it is unique, inimitable and cannot be replaced. Chanel N°5, the world's most famous fragrance, is undoubtedly the best example of this.
- Article titled '*Histoire de parfum: N°5*' (Cosmopolitan, 2015): Indeed, by combining the worlds of fashion and perfume, Coco Chanel revolutionised the world of perfumery by creating a fragrance that felt like it was tailor-made for each woman, like a couture dress.
- Article titled '*Il était une fois... le N°5 de Chanel*' (Cosmopolitan, 2021). "Once upon a time... Chanel N°5. [...] From the 1960s: the greatest actresses embodied the fragrance: Catherine Deneuve, Carole Bouquet, Nicole Kidman... The photographers and directors who shot them were just as famous: Richard Avedon, Patrick Demarchelier, Dominique Issermann, Helmut Newton, Ridley Scott, Baz Luhrmann [...]"

1980: Andy Warhol dedicated a series of nine silkscreen prints to the bottle, confirming its status as a pop culture icon”.

- Article titled ‘Chanel dévoile une nouvelle version de l’incontournable N°5 inspiré par Marilyn Monroe’ (Vogue France, 2024). Chanel reveals a new version of the must-have N°5 inspired by Marilyn Monroe. The myth of N°5 reinvented and modernized - If Marilyn Monroe wore the original N°5 formula, this Drop version contains N°5 L’Eau, released in 2016, echoing the modernity of the bottle and the moment. “I created N°5 L’Eau to reinvent this perfumery icon and perhaps surprise those who thought they knew it,” explains Chanel perfumer Olivier Polge. This new juice retains the essential notes of N°5 (aldehydes, jasmine, rose and ylang-ylang), blending in notes of citrus and cedar.”

Appendix 8: Press articles in French. The opponent provided the following partial translations:

- Article titled ‘Confession d’un enfant du siècle’ (Le Figaro, 08/01/2021): This fragrance is a concentrate of French heritage, and who else, at 100 years old, can boast of arousing desire and topping the charts? But, by the way, how do you keep the myth alive from the inside?
- Article titled ‘Le N°5 continue de faire son numéro’ (M, Le magazine du journal Le Monde, 29/01/2021): Adored by Marilyn Monroe, celebrated by Andy Warhol, Chanel’s perfume celebrates its 100th anniversary this year. The secret of its youth: a singular character that has not yielded to the sirens of fashion.
- Article titled ‘Un sacré numéro’ (Paris Match, 8-14th July 2021): Chanel’s N° 5 has dominated the perfume world since 1921. A look back at 100 years of its creation, as the Factory 5 collection revives the spirit of the avant-garde.

Appendix 9: Exclusive stamp collection for the 100th anniversary of “N°5”. In its observations, the opponent mentions that “For this 100th anniversary of “N°5” of Chanel, an exclusive stamp collection has even been created in collaboration with La Poste (2021): available in 2,500,000 units (20g), 1 200 000 units (100g) or 550 000 units (stamps block)”.



Appendix 10: Exhibitions in museums in Paris in 2013 and 2022/2023. The partial translation provided by the opponent mentions “N°5 CULTURE CHANEL” by Jean-Louis FROMENT and Irma BOOM Complements the “N°5 Culture Chanel” exhibition at the Palais de Tokyo in Paris. Such exhibitions were advertised in articles published in the French press ‘A Nous Paris’, ‘Public’, ‘ELLE’, ‘www.lesechos.fr’ and ‘Vogue’.

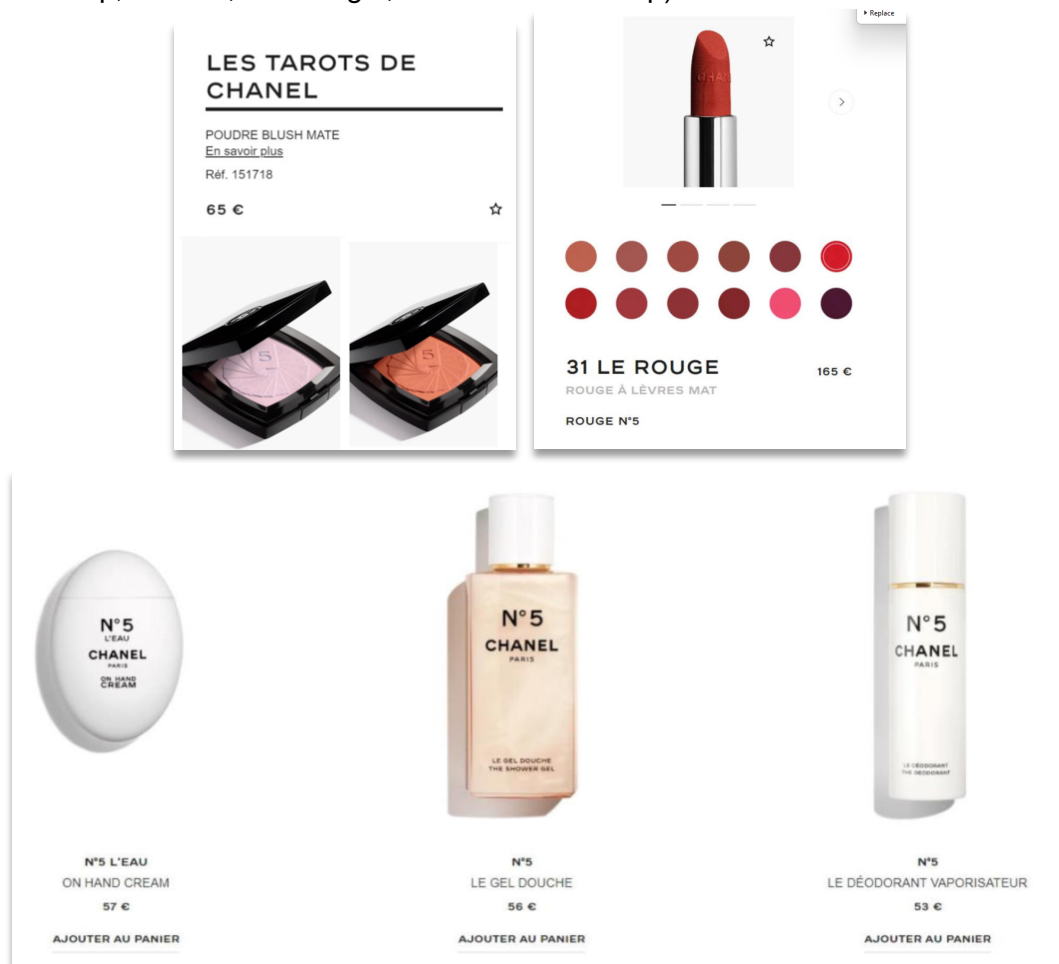
Appendix 11: Extracts of websites featuring available books published in France dedicated to “N° 5” by Chanel.

Appendix 12: Press articles in French that, according to the opponent, refer to perfume rankings. The opponent provided the following partial translations within its observations:

- Article titled ‘Chanel N° 5, 90 ans et toujours en tete des ventes’ (leParisien.fr, 2011). CHANEL N°5, 90 years old and still top of the sales charts. Chanel’s legendary fragrance celebrates its 90th anniversary in May.’

- Article titled '*Voici les 10 parfums pour femme les plus vendus*' (Cosmopolitan, 2024). Here are the 10 best-selling fragrances for women [...] Chanel N°5 it couldn't be more legendary. And even if it no longer dominates the market, this fragrance remains indestructible in people's minds.

Appendix 13: Extracts of the opponent's website in French. It shows the following products (e.g. make-up, creams, shower gel, deodorant and soap) that refer to N°5.



Appendix 14: The opponent refers to advertising campaigns in France for a new range of cosmetics launched under the 'N° 5' on the occasion of the 100th anniversary of the 'N° 5' perfume. The documents show articles in French (published in 2021 in, inter alia, the magazines *Avantages* (2021), *Cosmetiquemag*, *Paris Match*) as well as various pictures from outdoor advertising. The document shows, inter alia, 'N°5' used in connection with cosmetics and toiletries.

Appendix 15: According to the opponent, there was an advertising campaign in 2014 featuring the model Gisele Bündchen. The document shows an extract of a YouTube video with 120 595 558 views dated in 2014 showing the model as well as an undated photograph of the model.





Appendix 16: Press articles that refers to perfume solely as '5'. The opponent provided the following partial translations.

- Cover of the magazine *NUMERO* (2023) showing the model Lilly-Rose Depp.
- Article titled '*5, chiffre de légende*' (Le Monde, 2021). The famous Chanel N°5 fragrance celebrates its 100th anniversary. To pay tribute to it, the House has imagined a high jewellery collection composed of 123 pieces.

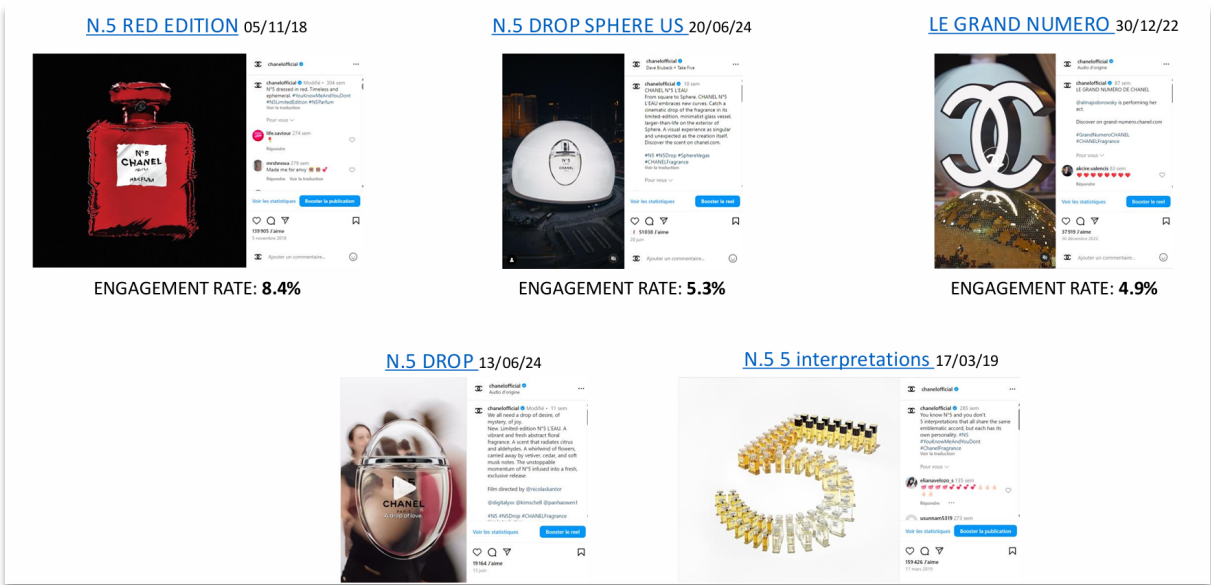
Appendix 17: Articles in French titled '*«Le Grand Numéro»: la nouvelle exposition sensorielle signée Chanel*' (madame.lefigaro.fr, 2022) and '*Expo: Chanel fait son grand numéro*' (lesechos.fr, 2022). The opponent claims that they refer to an exhibition organised in 2022 at the Grand Palais Éphémère in Paris.

Appendix 18: Advertisements for 'N° 5' perfume in French newspapers and magazines such as *Elle Décoration* (2023), *F l'art de vivre du Figaro* (2020), *Figaro Madame* (undated), *Le Point* (2022), *M. le magazine du Monde* (2022), *Point de vue* (2023).

Appendix 19: Screenshots of the opponent's official Instagram® corporate account with 60M followers. It shows two posts in French dated in 2023 with 54414 and 86765 likes, respectively. The posts show the perfume N°5.

Appendix 20:

- Extracts of the opponent's website in French showing make-up bearing the sign N°5.
- Undated images of the opponent's Christmas 2022-2024 campaign for the perfume N°5 in France.
- Compilation of images from the opponent's Instagram account from the source EMPLIFI. It indicates that 'Key to understanding: engagement rate is the ratio between interactions generated by a publication and the number of subscribers. A high engagement rate is considered to be around 4%'. The images indicate the following:



Appendixes 21-22: Press articles titled:

'Ces marques de cosmétiques cultes sont les préférées des français' (marie-claire.fr, 21/01/2025). These cult cosmetics brands are the French people's favourites. The article is in French but, from the self-explanatory content, it can be concluded that it refers to a report from YouGov and it mentions Chanel but no 'N°5'.

'Les Awards du luxe 2023' (Forbes.fr, 2023). The article is French; however, from a self-explanatory content it can be seen that N°5 perfume is ranked second.

'Chanel, Louis Vuitton et Hermès, marques françaises les plus valorisées' (strategies.fr, 21/01/2025). The document is in French but according to the opponent it mentions that the brand and Maison CHANEL are among the French people's favourites.

'ENTREPRISES Les marques américaines continuent de dominer le monde' (Les Echos 22/01/2025).

'Le trio Louis Vuitton, Hermès et Chanel en tête des griffes de luxe les plus puissantes au monde' (fr.fashionnetwork.com/, 2024). It shows the following ranking from 2024, but it is not broken by product nor territory.

Rank 2024	Brand	Brand Value 2024 (\$ M)	YoY change
1	LOUIS VUITTON	129,857	+4%
2	HERMÈS	93,676	+23%
3	CHANEL	60,152	+8%
4	GUCCI	23,820	-9%
5	DIOR	11,982	+5%
6	CARTIER	10,514	+8%
7	ROLEX	9,099	+15%
8	SAINT-LAURENT/YSL	6,505	+8%
9	TIFFANY & CO.	6,206	+1%
10	PRADA	5,125	+4%

Appendix 23: Kantar Brandz 2025 ranking of the most valuable French brands. The ranking does not refer to N°5 nor perfumes. But the opponent is ranked the 3rd most valuable French brands of 2025.

Appendixes 24-27: Advertising campaign featuring the actress Margot Robbie for the perfume 'N°5' (in 2025). It shows advertisements for the perfume 'N°5' in airports terminals (e.g. Paris Charles de Gaulle Airport (CDG)), French cinemas, in the streets, magazines such as Vogue, Rose Magazine and Marie Claire.

Appendix 28: Extract of the opponent's YouTube account in French. It shows a video dated 14/10/2024 with 4041 535 views. It shows the perfume 'N°5'.

Assessment of the evidence

The evidence filed by the opponent spans a very substantial period of time, covering decades of use and promotion of the 'N° 5' mark in France, and consists of a wide variety of materials, including press articles from leading French publications, advertising campaigns in print and outdoor media, YouTube advertising films, Instagram posts, museum exhibitions, press rankings, and an official commemorative stamp collection issued in collaboration with La Poste for the 100th anniversary of the fragrance.

The press articles from multiple independent French sources consistently describe 'N° 5' as the world's best-selling fragrance and as a mythical and iconic product of French cultural heritage (**Appendix 7**) as well as a mark that has dominated the perfume world since 1921 (**Appendix 8**).

The perfume's ranking in the Forbes luxury awards as second in 2023 (**Appendix 21**), its continued advertising in major French magazines and at prominent French locations such as Paris Charles de Gaulle Airport, French cinemas, and the streets of Paris (**Appendixes 18, 24-27**), the commemorative stamp collection issued with La Poste in 2,500,000 units (**Appendix 9**), the exhibitions at the Palais de Tokyo (2013) and Grand Palais Éphémère (2022) covered by leading French press including ELLE, Vogue, and Les Echos (**Appendixes 10, 17**), YouTube posts featuring internationally recognized celebrities such as Nicole Kidman, Brad Pitt, Gisele Bündchen, Marion Cotillard, Audrey Tautou, and Lily-Rose Depp (**Appendixes 3, 15, 28**), and outdoor campaigns in Paris at iconic locations such as Galeries Lafayette and La Samaritaine (**Appendix 6**) all unequivocally attest to the recognition of the 'N° 5' mark for perfumes among the French public.

The Cosmopolitan article from 2024 (**Appendix 12**) further confirms that, even if the fragrance no longer dominates the market in terms of sales volume; it remains indestructible in people's minds. Such type of content directly supports the conclusion that the mark is known by a significant part of the relevant public in France.

Although it is true that the opponent did not provided many posts from its social media accounts, it is equally true that the engagement on its Instagram® account (**Appendix 19**) and the views from the YouTube videos (**Appendix 28**) further confirm that the mark continues to enjoy significant recognition among consumers at the relevant date. It is clear from the evidence as a whole that the earlier trade mark has been subject to long-standing and intensive use and is generally known in the relevant French market for perfumes, where it enjoys a consolidated position among the leading brands.

While a significant portion of the evidence originates from the opponent's websites or official accounts (such as **Appendixes 1, 3, 13, 15, 19, 20, 24-28**), the body of evidence is substantially corroborated by multiple independent sources, including major French media outlets such as Cosmopolitan France, Vogue France (**Appendixes 5, 7, 8, 12, 14, 16-18, 21-**

22). The evidence covers the period from at least 2004 to 2025, establishing a long and uninterrupted presence of the 'N° 5' mark in the French market and in the French public consciousness well prior to the relevant date of 17 June 2025.

Although it is true that no precise market share figures or independent market research data were submitted nor the advertising expenditure is not mentioned directly, it can be deduced by the impressive number of press articles/advertisements in very prestigious, major national fashion magazines and newspapers with a wide circulation (**Appendixes 5, 7, 8, 10, 12, 14, 16, 17, 18, 21 and 22**).

The abovementioned evidence indicates that the earlier trade mark has been used for a substantial period of time. The marketing efforts suggest that the trade mark has a consolidated position in the market. Under these circumstances, the Opposition Division finds that, taken as a whole, the evidence indicates that the earlier trade mark enjoys at, least, certain degree of recognition among the relevant public, which leads to the conclusion that the earlier trade mark enjoys a at least an average degree of reputation.

This conclusion is not affected by the fact that, in several documents, the trade mark is used alongside the Chanel trade mark. This is because, from the evidence submitted by the opponent, clear that the earlier mark 'N°5' remains independent from the mark 'Chanel'. This can be seen in several press articles where the perfume is referred to only as 'N°5'.

However, the evidence does not succeed in establishing that the trade mark has a reputation for all the goods for which reputation has been claimed. The evidence mainly relates to *perfumes*, whereas there is no or little reference to the remaining goods, namely other type of perfumery products nor cosmetics.

This is clear, for example, from the press articles, advertisements and press rankings, where only the former are mentioned. While **Appendixes 13-14** do contain certain references to cosmetics and toiletries (such as make-up, creams, shower gel, deodorant, and soap) sold under the sign 'N° 5', this evidence is very limited in scope and largely originates from the opponent itself (its own website extracts and internal campaign images), without being corroborated by independent sources of sufficient weight.

A single press article from 2021 (**Appendix 14**) refers to the launch of a new cosmetics range under 'N° 5' on the occasion of the centenary, but this isolated reference, taken in context with the overwhelmingly perfume-focused nature of the remainder of the evidence, is insufficient to establish that the 'N° 5' mark has acquired a reputation among a significant part of the relevant public in France specifically for cosmetics.

On the basis of the above the Opposition Division concludes that the earlier trade mark has an at least average degree of reputation in France for *perfumes*.

b) The signs

N° 5	MATCH NUMBER 5
Earlier trade mark	Contested sign

The relevant territory is France.

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 mark will be understood as a whole as *numéro cinq* (number five) by the relevant public. This is because 'N°' is a standard abbreviation for the word 'number' which is universally recognised typographic convention in France used in everyday contexts such as addresses, product references, and rankings. The concept of a figure is the number it identifies. In the present case, the elements 'N°' and '5' together and in isolation do not have a connection to the relevant goods and are therefore distinctive.

The element 'NUMBER' of the contested sign will be understood by the relevant public because it is very close to its equivalent in French, namely *numéro*. Therefore, the elements 'NUMBER 5' in the contested sign will be understood in the same manner as the earlier mark.

For at least part of the public, and given the context of the goods at issue, will perceive the contested sign's verbal element 'MATCH' to the verb '*matcher*', derived from the English word "match", which, as mentioned by the opponent, is an Anglicism that has entered into use in the French language to mean '*correspondre*' ('to correspond'), '*être en correspondance*' ('to be in correspondence'), '*coïncider*' ('to coincide'), '*aller bien ensemble*' ('to go well together'), '*être en adéquation ou en harmonie avec quelque-chose ou quelqu'un*' ('to be in line or in harmony with something or someone'). However, this meaning has no clear connection with the goods in Class 3, it has a normal degree of distinctiveness.

Visually, the signs coincide in the number '5', which is present identically in both signs, and in the initial letter 'N' shared between 'N°' and 'NUMBER'. However, the signs differ overall structure and length. The earlier mark consists of only two short elements, 'N°' and '5', whilst the contested sign contains three elements, including the verbal element 'MATCH' at the beginning of the contested sign, which has no counterpart in the earlier mark. Furthermore, the corresponding elements 'N°' and 'NUMBER' differ in their character strings: 'N°' is a two-character abbreviation, whilst 'NUMBER' is a six-letter word.

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

The signs will be **aurally** referred to following the French pronunciation rules. The earlier mark element 'N°' will be pronounced as *numéro*. The coinciding element '5' will be represented as *cinq* (and pronounced as /sɛ̃k/, which sounds as 'SANK'). The signs further coincide in the first two syllables of the words '*numéro*' and 'number' and differ in their last syllable.

The signs differ in the pronunciation of the verbal element 'Match' which have no counterpart in the earlier mark.

Therefore, the signs are aurally similar to a below-average degree.

Conceptually, reference is made to the previous assertions concerning the semantic content conveyed by the marks. The coinciding concept of 'numéro 5' creates a meaningful conceptual similarity between the signs, notwithstanding the additional concept introduced by 'MATCH'. Therefore, the signs are conceptually similar to an average degree.

The consideration that the consumer normally attaches more importance to the initial part of a trade mark cannot apply in all cases and call into question the principle that the examination

of the similarity of trade marks must be based on the overall impression produced by them. There is no reason to believe that average consumers, who are reasonably well informed, observant and circumspect, will systematically disregard the subsequent part of the verbal element of a trade mark to the extent that they only remember the first part (07/06/2023, T-33/22, Porto insígnia / Insignia et al., EU:T:2023:316, § 56-57).

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 the degrees explained above. 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.

As explained above, the signs are visually similar to a low degree, aurally similar to a below average degree and conceptually similar to an average degree.

The goods for which the earlier mark has been found reputed are namely *perfumes*. The contested goods consist of perfumes, cosmetics, toiletries and essential oils. The vast majority of the contested goods are at least similar to a low degree to the reputed goods. Even if some of the contested goods may be dissimilar to the reputed goods; the fact remains that all the goods at issue are closely related to the beauty sector and target mainly the general public.

The inherent distinctiveness of the earlier mark is average; however, for *perfumes* it has been found reputed to a high degree.

Therefore, taking into account and weighing up all the relevant factors of the present case, it must be concluded that, when encountering the contested mark, the relevant consumers 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.

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 proprietor of the earlier mark bases its claim on the following:

- The use of the contested mark in relation to the contested goods is highly likely to bring the earlier marks to the mind of the relevant public. This is, by the way, precisely the aim of the contested mark, which combines the term 'MATCH' with the element 'NUMBER 5' in order to emphasise the equivalence with the earlier mark –

the terms « match » and « number » being easily understood by the French public. In the presence of such an association on the part of the public, the use of the contested mark 'MATCH NUMBER 5' is likely to take unfair advantage of the reputation of the earlier mark 'N°5'.

- 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 trade mark or an attempt to trade upon its reputation.
- There is a risk that the image of the trade 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.
- On the one hand, the earlier trade mark with reputation is used by CHANEL, a prestigious and world-famous luxury House, to designate luxury perfumes and cosmetics, the image of which is excellent in the mind of the public - like that of all the products of a House as reputed as CHANEL.
- The French press ranks CHANEL among the favourite perfumery and cosmetics marks of the French public (Annex 21), while the "CHANEL" mark is among the most highly valued marks in France and the most powerful and prestigious in the world, according to the Brand Finance Global 500 and Kantar BrandZ rankings (Annex 22). In 2025, Kantar Brandz ranked 'CHANEL' third in its 'Top 50 Most Valuable French Brands' list (Annex 23). The history of the 'N°5' mark and advertisements for 'N°5' products in France, carried by very famous muses (models and actresses) have obviously helped to give the 'N°5' mark a very positive image (Annexes 1 to 6, 15, 16, 18, above § 26 sq.), as evidenced by the numerous references to these products in the French press (Annexes 7, 8, 12, above § 27 sq.).
- On the other hand, the high level of reputation and distinctiveness of the 'N°5' trade mark in France for perfumes and cosmetics, its high distinctiveness, the identity of the high majority of the goods and the similarity of the conflicting signs at a high level are factors that enable the applicant to take unfair advantage of the 'N°5' trade mark's reputation and prestige.

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.)

To determine whether the use of a sign takes unfair advantage of the distinctive character or repute of the 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, EU:T:2007:131, § 53, confirmed 12/03/2009, C-320/07 P, Nasdaq, EU:C:2009:146; see also 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, EU:C:2011:177, § 53).

The misappropriation of the distinctiveness and repute of the earlier mark presupposes an **association** between the respective marks, which **makes possible the transfer of attractiveness and prestige** to the sign applied for. The more immediately and strongly the earlier reputed mark is brought to mind by the contested mark, the greater the likelihood that

the current or future use of the mark would take unfair advantage of the distinctiveness or repute of the earlier mark

In the present case, the Opposition Division considers that the use of the contested sign 'MATCH NUMBER 5' in relation to the contested goods is highly likely to bring the earlier trade mark 'N° 5' immediately to the mind of the relevant public. The contested sign will be perceived by the relevant public as a direct reference to the earlier mark, suggesting that the goods bearing the contested sign match or are equivalent in quality, fragrance and prestige to those marketed under the opponent's reputed perfume 'N° 5.' In this way, the applicant would benefit from the strong attractive force and prestigious image that the earlier mark has built up over time, without having incurred any of the costs associated with establishing such reputation.

On the basis of the above, it is concluded that the contested trade mark is likely to take unfair advantage of the distinctive character or the repute of the earlier trade mark in the perception of the relevant public in France.

e) 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 ground 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.