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Trademarks

Philadelphia Eagles Left Empty-Handed

Trademark rights in the European Union arise from registration, not simply by using a name or logo in business. Many companies assume that use alone is enough, but often only the word mark gets registered, which can lead to issues. The football industry in the US is thriving, with 2024 revenues reaching $23 billion, and the NFL has taken care to record all trademark rights—particularly for merchandise.

Recently, a clothing logo application featuring an eagle silhouette was filed in the EU, which prompted the NFL to object, since it closely resembles the Philadelphia Eagles' logo. However, only EAGLES and PHILADELPHIA EAGLES word marks are registered in the EU. During opposition, the team stressed its historic legacy and the use of the eagle logo since 1933.

Nevertheless, the objection was unsuccessful. The ruling was clear: it is not the use, but the registration that counts. If the marks are visually different and the public can describe the logo in countless ways, there is no risk of confusion. EU opposition proceedings focus on the specifics of what is registered, not usage. The marks in question lack visual, phonetic, and conceptual similarity. Practical guidance—do not restrict trademark filings solely to word marks; graphical logo registration is essential for robust protection.

Trademarks

Prada and Adidas: cultural heritage in the spotlight

Geographical indications protect regional specialties—think Champagne or Gouda cheese. In short, it's a quality label for local products. The goal? Safeguard top-tier local, cultural, historic, or culinary products.

From 1 December, these indications can also cover unique craft and industrial products. Is this really needed? Sadly, yes. took inspiration from Mexico's Huarache.

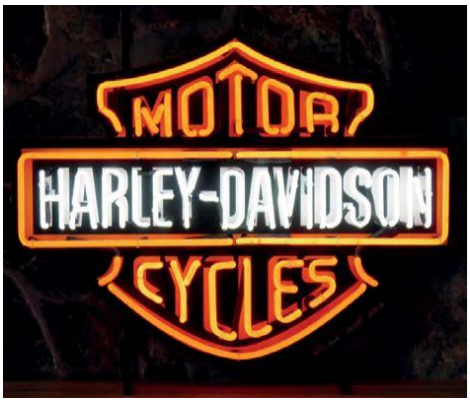
This is more relevant than ever after this summer, when both Prada and Adidas faced accusations of cultural appropriation for releasing sandals notably similar to traditional designs: Prada's echoed the Indian Kolhapuri and Adidas drew on the Mexican Huarache. While taking inspiration from global design is not unusual, businesses

should have robust compliance protocols—and a moral compass—to avoid exploiting cultural heritage or sparking backlash. Adidas addressed the issue head-on, offering a public apology and dispatching its legal team to collaborate directly with traditional artisans, helping to sustain those local crafts. In contrast, Prada's response was more muted, illustrating how brand respect can be won or lost in moments. As the legal framework broadens, the prudent approach is clear: companies must strike a careful balance between commercial creativity and the protection of invaluable heritage, or risk their reputation with consumers and local communities alike.

Trademarks

Riding on Harley-Davidson's Fame

Registered in 2010, the AIRBNB trademark covers a broad range of services: from digital platforms through to advertising, payment processing, and the renting of temporary accommodations. However, EU trademark law firmly demands genuine use within five years of registration for each claimed service..



Despite an apology, the seller would not commit to a formal cease-and-desist, leading to litigation. In court, the defendant's core argument was that Harley-Davidson's trademarks were not registered for lighting products and therefore infringement was not possible. The court, however, found that the use of a globally recognized mark—even outside the strict goods category—constitutes taking unfair advantage of that reputation. The webshop was held liable for infringement and required to both cease sales and compensate Harley-Davidson for legal costs, despite their claim of good faith sourcing. In practical terms, this case underscores for resellers that regardless of "grey area" product categories, the fame and reach of a trademark are critical in risk assessment and due diligence. The advice is clear: ensure authorization of mark use with suppliers and obtain contractual indemnity before entering into any merchandising arrangement.

Partial Cancellation of AIRBNB Mark

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When Airbnb opposed the mark AIRTASKER (for software), the opposing party countered by initiating revocation for lack of use. The dispute eventually reached the European court, which determined the trademark was demonstrably used primarily for booking services via the platform. However, the same could not be shown for several other classes—such as advertising, newsletters, and payment services—which instead only supported Airbnb's own platform, not independent service provision. Consequently, registration was partly revoked: the mark survives for "organising temporary accommodation" but not for broader "temporary housing" or other ancillary services. The lesson for trademark owners is sharp: ensure that each registered class or service is backed by clear, autonomous use—or face losing exclusive rights. A nuanced registration strategy, paired with regular audits of genuine market use, is key to robust protection.

BVG Sound Mark Gains Protection

On appeal, however, the European court reversed this decision, emphasizing that what matters is not length, but distinctiveness and originality within the relevant market.

Unlike standard metro sounds, BVG's jingle was found to be certain and novel, serving as a valid source identifier for consumers.

The court added that within the transport sector, the use of short but powerful soundmarks—as effective "audio logos"—has become industry standard, adding further justification for acceptance. The upshot is clear: companies in any sector may succeed with sound marks if they can demonstrate that their audio signature is genuinely distinctive and instantly associated with their services.

Dispute Over the SAPPH Brand

The SAPPH lingerie brand found itself in the limelight once again—this time due not to provocative advertisements, but due to allegations of misleading consumers. Customers reported undelivered orders, and communications with webshop operator Ultracool failed, prompting the Dutch consumer authority ACM to open an investigation.

In 2023, Orange Wing, the original rights holder, entered into a structured transfer with a group of Ultra companies: payment for the trademark would be made in installments, and the buyer was licensed to use the mark until the full price was paid. However, after payment lapsed, Orange Wing terminated the agreement and took down the <sapph.com> domain. Ultra quickly launched <shopsapph.com> and continued using the mark. Orange Wing went to court, seeking an injunction, the return of all related domains and social channels, and a cessation of use. The court sided entirely with Orange Wing, but the reputational hit had already been taken. The business lesson: reputation and goodwill are built over years but can be lost in an instant—secure payments and monitor compliance in any trademark deal.

pastaZARA: Fame versus Legitimate interest

Ffauf Italia, a renowned pasta producer, has marketed pastaZARA for generations, tracing its lineage to the city of Zara (now Zadar, Croatia). With registrations since the 1960s in multiple jurisdictions, the brand's longstanding use is well documented. When a new "pastaZARA Sublime" EU trademark was put forward, Inditex—the parent company of fashion powerhouse ZARA—objected, alleging the potential for consumer confusion and "free-riding" on its famous mark.

This kind of scenario is not unusual: ZARA is a household name in clothing worldwide, and associations may arise even between disparate product categories. Inditex succeeded initially, but on appeal, the court determined that although there is some similarity in the marks, clothing and pasta are unlikely to confuse consumers. Notably, the court stressed Ffauf's earlier, genuine, and good-faith use—which included decades' worth of previous registrations, honest business operations, and usage in brochures and packaging. In this case, historical rights trumped any new association. The result: a valid reason for coexistence, even if today's consumer might draw a mental link.

Lady Gaga's Mayhemm Ball Tour

In March, Lady Gaga released her latest album "Mayhem" and launched a worldwide tour, accompanied by extensive merchandise such as hoodies and caps. rough style, using

The visually distinctive MAYHEM logo appears in a bold, irregular letterforms. This quickly drew the attention of Appletree Surfboards, which saw a striking resemblance to the established MAYHEM mark used in the surf scene by Lost International.
Lost International sued, highlighting its 30 years of consistent trademark use—the first T-shirts sold in 1991, and ongoing registrations for surfboards and apparel.

Because the MAYHEM mark is so closely tied to surf culture, Lost International wants to prevent any association with mainstream entertainment and Lady Gaga's branding. The demand is for an outright injunction. Absent a settlement, the prospects for enforcement appear favorable. The broader lesson: when developing a new brand identity or launching high-profile merchandise, always perform a comprehensive trademark availability search to avoid costly disputes.

Copyrights

Comfora Slippers: no copyright protection

In Dutch practice, businesses often invoke copyright to protect the shape of everyday goods, but model (design) law is far more appropriate for this aim. Between 2016 and 2020, Comforta marketed several slipper designs.
When Shoes4All entered the market with similar slippers, Comforta sued for copyright infringement, though its slippers were not sold in the Netherlands, only in Germany and beyond.

The court rejected Comforta's claim since copyright ownership in those other countries was not sufficiently established. Additionally, Comforta claimed slavish imitation; Shoes4All countered that many suppliers offered similar slippers, so Comforta's designs lacked the necessary individual character.
Once again, the court ruled for Shoes4All: imitation was permissible. Had Comforta sought EU design registration, it might have had a stronger case and a better chance of exclusive rights. The key takeaway: carefully assess which intellectual property right best fits your product and target markets to ensure enforceable protection.

Design law

Pictures tell the story in design law

Design registration offers strong protection for product appearance, but success depends on the clarity and quality of the images submitted. EU authorities do not assess the validity or uniqueness of a design at filing or check whether the submitted visuals accurately depict the protected element.
In 2010, Erdi Holland—specialists in traffic safety products—developed a flexible road sign attachment and registered the design as an EU model. However, the only submission was a solid black square, lacking clear technical drawings or detailed photos.

Years later, when Erdi Holland sought to enforce their exclusive rights against a competitor, the court considered only the submitted documentation, not the real product. Because the visuals didn't show the key innovative features, the claim was dismissed. The lesson for every business: work with professionals to ensure registration visuals clearly define what you want to protect. Only then can the full scope of design law be leveraged.

European Trademark Agency Abcor

Abcor is an IP Law firm, located in Europe (the Netherlands).
Our specialty is consultation with regards to intellectual property matter, trademarks, designs, copy right and domain names in particular.
Our services include the registration of trademarks and designs, searches, infringements and oppositions.

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