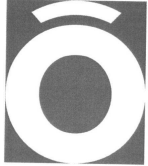









Decision	Prior trademark	Trademark application	Likelihood of confusion	Reasons	Focus
FRANCE INPI OPP 12-4844 30 April 2013			NO	<p>If the office agrees that the term FEMME (woman), taken apart, is not distinctive for the goods in question, it remains that the expression Ô FEMMES (Ô WOMEN) has specific construction and appearance, and constitutes a whole in which the letter Ô blends seamlessly.</p> <p>The relevant public will consider the trademark as a whole; despite its first position in the sign, the letter O is not likely to retain the attention of the consumer in the contested sign.</p> <p>Further, such a differentiating feature ensures that undue protection is not given to marks relying on a single letter; the choice of this letter is therefore at itself not sufficient to create a risk of confusion between the signs at issue, and, given the predominant visual differences compared to the similarities between the two signs taken as a whole, there is no risk of confusion between the two marks.</p>	<p>Despite the descriptiveness of the word WOMEN or FEMMES for jewelry, the contested mark is considered as a whole, given the particular presentation of the sign.</p> <p>A sign consisting of a single letter or a simple form has a weak protection, limited to the identical.</p>
E.U. OHMI Board of appeal R192/2012-5 23 April 2013	 <p>And</p>		NO	<p>Both the contested CTM and the earlier marks contain devices with the combination of a vertical stroke on the left and a stroke curving from left to right on the right side, which may, or may not, represent versions of the capital letter 'D'. This vague resemblance is greatly outweighed by the many discrepancies between the signs.</p> <p>For the two conflicting signs, even if they were</p>	<p>When applying for a trademark composed of stylized letter, it is advisable to indicate how the sign should be pronounced in the description of the mark.</p> <p>This allows a better ranking in the database of the Office used for prior art searches and could limit subsequent</p>

				<p>read as representing a letter (D or N), the General Court has held that mere letters featuring a very specific graphic appearance are generally not pronounced but, rather, tend to be described.</p> <p>The conceptual perception of the signs is directly related to how they are perceived visually.</p> <p>The contested CTM conveys no clear and univocal conceptual message; Overall, the earlier trademarks have a rather modern appearance compared to the archaic, historical character surrounding the younger mark.</p>	filings.
E.U. General Court T-537/11 19 April 2013	KICKERS		YES	<p>The applicant unsuccessfully argues that words ending in 'ickers' are not uncommon in English, and that, therefore, the beginning of the signs at issue is all the more important. But although many consumers have a sufficiently good knowledge of English, the fact remains that the ending 'ickers' does not exist in Italian and that it will appear unusual to the majority of the relevant consumers. Aurally, in both cases the stress falls on the first syllable. Conceptually, 'snickers' is not known by the relevant public.</p> <p>The word 'kickers', meaning someone who kicks something, is not a basic English-language word internationally recognised. Therefore, although one part of the relevant public understands the meaning of the term 'kickers', the fact remains that it is also necessary to take account of the other part of the relevant public, for which the term has no meaning.</p>	<p>The likelihood of confusion will be recognised even if it exists for only one part of the relevant public, if not insignificant.</p> <p>The fact that the two parties agree that the relevant consumers have a sufficient command of English to understand the meaning of the term 'kickers', in the absence of other convincing evidence, is not sufficient to establish that all of the relevant Italian public understands the meaning of the term 'kickers'.</p> <p>Since the likelihood of confusion is recognised by the Court, there is no need to examine the claim for enhanced distinctiveness of the TM KICKERS.</p> <p>The evocation of the American word SNEAKERS by SNICKERS was not raised by the applicant in order to establish conceptual differences</p>

					between the signs, may be in order not to weaken the distinctiveness of the trademark filed for shoes.
FRANCE INPI OPP 12-4623 19 April 2013	BLACKBONE	BLACKSTONE	YES	There exists some major visual and phonetic similarities between the signs BLACKBONE and BLACKSTONE (signs of same length, identical initial and final sequences BLACK-/-ONE, identical rhythm, same succession of sonorities [blak-one]), which lead to the same overall impression.	The conceptual differences between the elements BONE et STONE were not claimed by the applicant and cannot therefore be taken into consideration in the assessment of the similarity of the marks at issue.
E.U. OHMI Board of appeal R 1774/2012-1 10 April 2013	Variostore	VarioSpot	NO	Both share the initial verbal element 'vario' and the further letter 's'. The most conspicuous parts of the signs are identical and this constitutes a sufficient indication that they convey a general impression of similarity. This identity is immediately recognizable at the beginnings of the signs. The signs also have an identical structure with the result that, when pronounced, they will sound even more similar. Conceptually, although admitting that the earlier trade mark might be perceived as a weak sign in relation to certain goods which it covers, this is only a factor in the global assessment of the similarity of the signs and, in itself, is not sufficient to state that they are dissimilar.	Since the applicant failed to prove that the word 'vario' would be perceived by the relevant public as a meaningful and laudatory term, even if the word STORE will be understood as such, the marks considered globally are likely to be perceived as meaningless by the public. Therefore, no conceptual difference may counteract visual or phonetic similarities between the signs.
E.U. General Court T/237-11 15 Jan. 2013		BELLRAM	YES	The term constituting the earlier word mark, 'ram', and that constituting the mark applied for, 'bellram', which are three and seven letters in length respectively, are both short signs. In those circumstances, the identical nature of the syllable 'ram', in the two marks at issue, is such as to attract and retain the attention of the relevant consumer. Phonetically, those marks have an	Those case laws illustrate the assessment of the likelihood of confusion during the comparison of a trademark totally reproduced by a second complex sign. - When the signs are short (RAM/BELLRAM), the likelihood of

				<p>identical syllable which, on the one hand, constitutes the only word element making up the earlier word mark and, on the other, is one of the two syllables which make up the mark applied for.</p> <p>Even if, as the applicant claims, the consonant 'r' is not, in principle, stressed in Spanish, the fact remains that it is a strong and distinctive consonant capable of accentuating the phonetic importance of the second syllable of the mark applied for.</p> <p>Neither of the signs at issue, when considered as a whole, has any meaning.</p>	<p>confusion is recognised even if the common part is placed at the end of the contested sign.</p> <p>- But if the signs are longer, such as COSMO/COSMOBELLEZA, the trademarks should be considered as a whole and the differentiation caused by the second part of the word makes it possible to distinguish the marks at issue.</p>
FRANCE INPI OPP 08-1452 23 April 2013	COSMOBELLEZA	COSMO	NO	<p>The element 'belleza' cannot be regarded as negligible since it is a long sequence; the fact that the sequence 'COSMO' is identical to the first part of the mark applied for is not sufficient to create a likelihood of confusion between the marks, as they produce a different overall impression.</p>	<p>The reputation of the trademark COSMO for entertainment services has been ruled out by the General Court, but even if it had been demonstrated, the Court estimates that this would not have change the conclusion concerning the absence of similarity between the marks.</p>
E.U. General Court T-344/09 27 June 2012	COSMO	COSMOBELLEZA	NO	<p>Visually, both the length of the mark applied for and the fact that its appearance refers to terms of the Spanish, Portuguese or Italian languages, though that term may not be understood by the relevant public, particularly in the United Kingdom, are factors which counteract the similarity to be found in the fact that the beginning of the mark applied for is identical to the earlier mark.</p> <p>Aurally, COSMOBELLEZA is a homogeneous neologism, the relevant consumer has no reason not to pronounce that second part, where Italian, Portuguese or Spanish sounds are an additional element of differentiation in the pronunciation of</p>	<p>Besides, the GC rejected the opponent's argument as regards an existence of a series of marks (the other trademarks mopped were COSMOPOLITAN, COSMO TEST and COSMOPOLITAN TELEVISION) based on the element COSMO, because it is not probable, either in the earlier mark COSMOPOLITAN or in the CTMA, that COSMO will be perceived as being an independent element which serves to connect those marks to a series.</p>

			<p>the mark applied for, which is longer than that of the mark COSMO.</p> <p>Conceptually, as regards the United Kingdom public, it is clear that since that public will not understand the meaning of the mark COSMOBELLEZA, but solely that of the mark COSMO, it will continue to perceive a degree of conceptual dissimilarity, albeit slight, because of the Italian, Portuguese or Spanish aspect suggested by the mark applied for, but will not however understand the specific meaning.</p>	
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