

Decision	Opposed G/S	G/S applied for	Likelihood of confusion	Reasons	Focus
<p>EGC 14 May 2013 Case T-249/11 Representation of a chicken/ Representation of a chicken</p>	<p>Meat, poultry and game; meat extracts; live animals (classes 29 and 31)</p>	<p>Advertising, commercial agencies, franchising, export and import; wholesaling and retailing of all kinds of foodstuffs and selling via global computer networks of foodstuffs of all kinds (class 35); Transport, storage and distribution of chickens (Class 39)</p>	<p>There can exist some degree of complementarity between the opposed goods and the contested services</p>	<p>Notwithstanding the difference between, on the one hand, chicken meat and live chickens and, on the other, advertising, commercial agencies, franchising, export and the transport, storage and distribution of chickens as regards their nature, their intended purpose, their method of use and whether they are in competition with each other, the Board of appeal failed to assess some parameters while comparing the complementarity between the goods and services at stake.</p> <p>The complementarity of the goods and services for the requirements of the assessment of the similarity between those goods and services is not assessed on the basis of whether the goods or services have an 'internal' character (the fact that the producer of chickens will export or transport only its own products and not those of third parties is irrelevant) but on the basis of the perception by the relevant public that the responsibility for the production of those goods or provision of those services lies with the same undertaking or with different undertakings.</p> <p>In the present case, wholesale purchaser of chickens, which also needs a chicken transport service, is likely to take the view that there is a strong link between the production of chickens and the transport, storage and distribution of chickens, so</p>	<p>If there may exist a link of complementarity between the goods and the services expressly used in connection with those goods, such as chickens and transport of chickens, the link between some goods, whatever they may be, and a general category of services, without any further precision, seems too weak.</p>

				that the consumer of those goods and services will consider that they come from the same undertaking.	
INPI France 23 April 2013 OPP 12-4779/MS Ultibro/Ultibio	Pharmaceutical products	Medical and veterinary services, medical assistance, hospital services, nursing homes	YES	<i>The similarity is recognised without any further development by the examiner, since the similarity has not been contested by the applicant.</i>	While pharmaceutical products may be prescribed as part of the covered services, it is very rare that pharmaceutical firms offer this type of services. The close connection between those goods and services, in the sense that one is indispensable or important for the use of the other in such a way that the public might think that the responsibility for the production of those goods or provision of those services lies with the same undertaking, is not really obvious in that case.
EGC 4 June 2013 Case T-514/11 Betwin/B'Twin	Gymnastic and sporting articles	Category of articles consisting of toys, games and playthings	NO	Even if, by their <u>nature</u> , those two categories of goods are meant to entertain the public, they also serve other purposes. As the applicant rightly submits, gymnastic and sporting articles are intended to train the body through physical exercise, whereas toys, games and playthings are intended first and foremost to entertain their users. Concerning the <u>distribution channels</u> , they are categories of goods which are generally manufactured by specialist	According to the Court, a "certain fluid transition" between the goods is not a sufficient condition for a finding that the goods at stake are in competition or complementary.

				<p>undertakings and are sold in specialist stores. Admittedly, like all types of other goods, they can now be found in large retail stores. However, in such sales points, both gymnastic and sporting articles and toys, games and playthings are sold in specialist departments which, even though they may be close, are none the less separate.</p>	
<p>EGC 11 July 2013 Case T-197/12 GrupoMetropolis/ Metro</p>	<p>Real estate services</p>	<p>Financial services</p>	<p>NO</p>	<p>The level of public awareness is high because financial and real estate services both generally require significant investment.</p> <p>Financial services do not have the same nature, the same destination or even type of use as the real estate services. Indeed, while the financial services are provided by financial institutions for the management of financial resources of their clients and include, inter alia, the custody of the funds deposited in remittances by grants or loans from various financial operations, estate services consist of services relating to a building, namely, in particular, rental, purchase, sale or management of such real estate property.</p> <p>If the services listed may be in the same channels of distribution, real estate services are not, in principle, provided on the same premises as financial services. Finally, with regard to the complementarity of covered services, if financial services may be important for the acquisition of a property, it cannot be</p>	<p>The court's analysis seems convincing. It cannot be denied that many banks diversify their activities and propose, beside financial services, new services such as insurance or real estate services. But they do so under different commercial signs, and reach a public different than the customers of the bank.</p>

				<p>inferred from this finding alone that consumers would be led to believe that the responsibility for real estate services and financial services lies with the same undertaking. Any other conclusion would mean that any non-financial transaction which, because of its size or other criteria, would be subject to the grant of fundings would be complementary to a financial service, even though the only link is the need to obtain funding.</p>	
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