

# D YOUNG & CO TRADE MARK NEWSLETTER *no.84*

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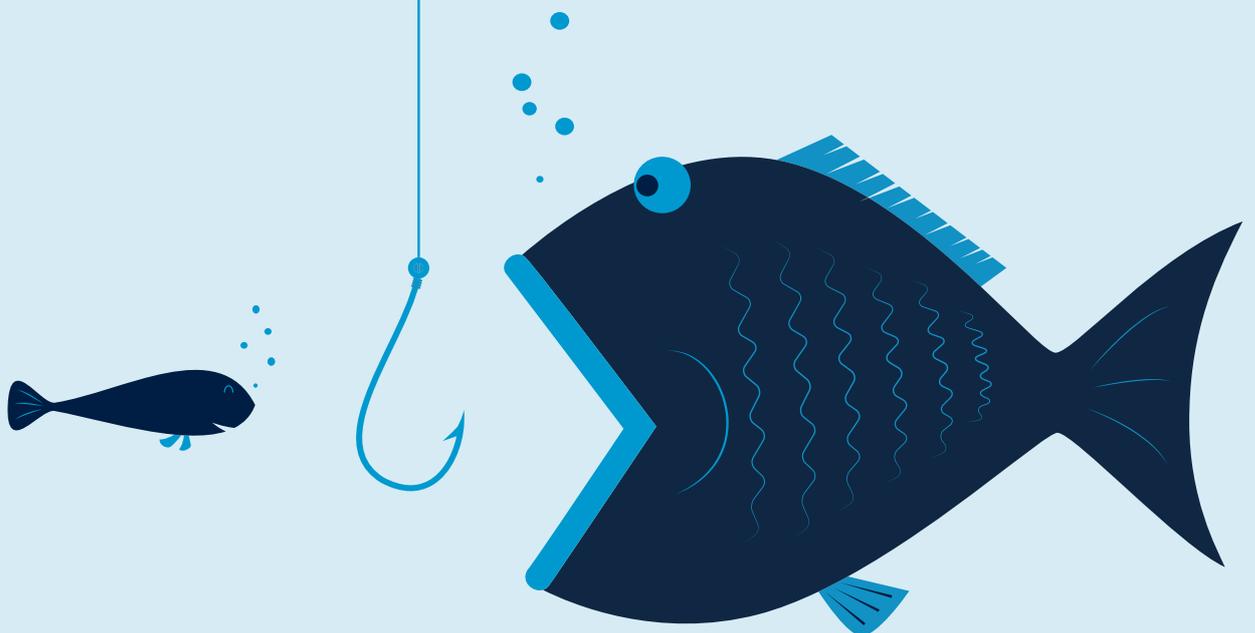
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## New threats on the horizon Unjustified threats on IP rights to be overhauled



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Welcome to the January 2016 trade mark newsletter.

As we welcome in the New Year, we also celebrate the fifth anniversary of the launch of our Dispute Resolution & Legal Group, headed up by partners Ian Starr, Tamsin Holman and Richard Willoughby. We also look forward to celebrating a lengthier term of service, noting that in October this year we will mark our 125th year in business. We are proud of our heritage and of our continued commitment to the provision of the broadest and most cost-effective IP advice to our clients.

We look forward to working with our colleagues and clients again in 2016 and wish all our readers a happy and prosperous New Year!

Editors:

Jackie Johnson & Matthew Dick



Events



15-16 March 2016

**Wearable Technology Show, London UK**

We are pleased to sponsor this key event for the wearables, augmented reality and IOT community. D Young & Co will be answering IP questions at the show. Come and visit us at stand 90.

21-25 May 2016

**INTA, Orlando US**

Registration for INTA's 2016 Annual Meeting will open on Wednesday, January 20, 2016. Partners from D Young & Co's trade mark group and dispute resolution & legal group will be attending the conference, along with an estimated 9,500 brand management, trade mark and IP professionals from all over the world. Do get in touch if you would like to meet with us during the conference.

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Unjustified threats provisions

New threats on the horizon  
Unjustified threats on IP rights to be overhauled

The area of unjustified threats is to be revamped in the near future following the publication of the Intellectual Property (Unjustified Threats) Bill in October 2015, being the culmination of the Law Commission's project to reform this area.

UK law on unjustified threats (unlike most other European Union countries) makes sending letters before action to potential infringers potentially actionable and the basis of an injunction and damages against the sender. However, the current law is unclear and varies depending on the IP rights alleged to be infringed.

The changes to the law may be classified as 'evolutionary' as opposed to 'revolutionary'. It is hoped that the reform will go some way in answering the overdue need to update the area of unjustified threats, and further developments can be expected in the future. As a minimum, it appears that the new bill provides a clearer framework within which parties can make legitimate, good faith attempts to resolve disputes with the aim of avoiding full litigation proceedings.

A project to review the legislation on unjustified threats was launched in 2012, with the aim of updating the existing threats provisions across the relevant intellectual property rights, being patents, trade marks and designs. The official consultation was opened in 2013, which asked for industry comments on two proposed methods of reform:

1. to extend the 2004 reforms in relation to patents more generally to threats legislation; or
2. to reclassify groundless threats as 'unlawful competition' and to introduce new provisions under the Paris Convention.

A year later, in April 2014, the commission released its final report and made various recommendations to parliament. On the basis of this report, the Intellectual Property (Unjustified Threats) Bill has now been published, together with a supporting commentary.

There are two main areas of reform which will have impact for both rights owners and alleged infringers.

Primary actors

First, there will be no liability in relation to threats aimed at primary actors in relation to trade marks and designs. This change is in order to bring consistency with the current exceptions allowed in relation to threats made for patents. Therefore, not only will threats made in relation to 'primary acts' (being manufacture and importation, etc) escape liability, now any threat made to a primary actor will not be actionable, even if it refers to a secondary act as well.

Another change for trade marks will be that a threat in relation to a person who applies the mark to goods or their packaging (or to the person who commissioned this) will also fall within the exceptions to liability.

Secondary infringers

Secondly, the bill provides for a safe harbour for communications with secondary infringers, ie, retailers. This safe harbour will be relevant where:

1. the communication is made solely for a permitted purpose (such as to discover if the right is being infringed and by whom);
2. all of the information provided is necessary for that purpose; and
3. the person making the communication reasonably believes it to be true, even where the recipient might interpret the communication as an implied threat.

If these three conditions are fulfilled, then the safe harbour will provide a further exception to liability in relation to threats.

The safe harbour may appear to provide a new wide defence to a threatening party. However, in practice it appears that the threatening party will have to demonstrate that they used 'reasonable endeavours' to find the primary infringer before threatening a secondary infringer. This is aiming at reflecting current practice in patent law across all the

> **Case details at a glance**

**Jurisdiction:** England and Wales  
**Decision level:** Intellectual Property Enterprise Court (IPEC)  
**Parties:** T & A Textiles and Hosiery Ltd v Hala Textile UK Ltd and Hala Textile UK Limited, Abdul Hadi Shehezad and Irfan Ahmad  
**Citation:** [2015] EWHC 2888 (IPEC)  
**Date:** 23 October 2015  
**Full decision:** <http://dycip.com/tavhala>

**Jurisdiction:** England and Wales  
**Decision level:** High Court of Justice Chancery Division  
**Parties:** Quads4Kids v Colin Campbell  
**Citation:** [2006] EWHC 2482 (Ch)  
**Date:** 13 October 2006

> **Knowledge Bank**  
Scan the QR code below using your internet enabled smart phone to access our ip knowledge site



> **Missed anything?**  
We regularly publish IP case updates and articles between newsletters. For up to the minute IP related articles and news visit <http://dycip.com/iparticles>

intellectual property rights, albeit that in the patent arena, a threatening party must show best, not just reasonable, endeavours.

**Other changes**

Of course, the bill also implements a number of other changes such as extending the threats provisions so that they apply to unitary patents (when they come into being) and to European patents (UK) that fall under the exclusive jurisdiction of the Unified Patent Court. Further, professional advisers will now generally be protected from being sued for making threats on behalf of their clients.

The bill has not addressed a number of other problem areas such as copyright, passing off, trade secrets, geographical indications and database rights, which still do not fall within the scope of threats legislation. Further, there does not appear to have been analysis at a European level with a view to EU harmonisation in this area. The Law Commission has itself concluded that serious consideration should be given to introducing a new tort of false allegations.

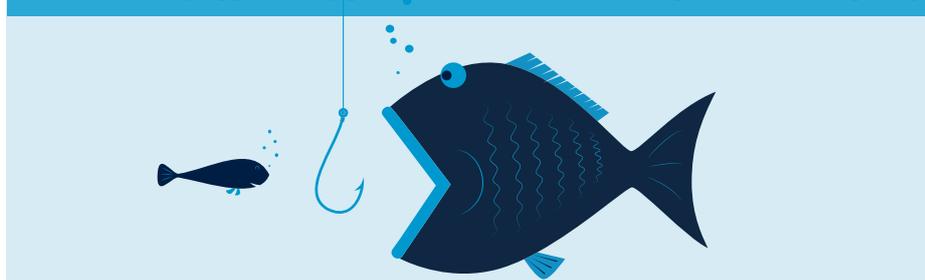
Whilst we wait for the bill to come into force and the practical impact of the new provisions, the English Courts are handing down judgments on the current law of threats which aim to provide some clarity to this area. Such judgments will remain relevant after the introduction of the new legislation.

**Take-home points**

The recent case of T&A Textiles and Hosiery Ltd v Hala Textile UK Ltd (T&A v Hala) has confirmed the established position that a rights owner using the eBay VeRO system (verified rights owner system - which provides a means of notification of a possible infringement and a take-down of the offending page) may be at risk of such notification constituting a threat if drafted incorrectly. This confirmed the previous position set out by the High Court in Quads4Kids v Colin Campbell.

This case provides a useful reminder that threats can consist of more than a formal letter before action, and that all communications with potential infringers should be reviewed with the risk of a threats action in mind.

**In UK law a party aggrieved by groundless threats can challenge the threatening party**



Another interesting point in T&A v Hala was that the threats action succeeded with regard to the letters to two of the defendants' customers. The claimant had actually accepted that the letters constituted threats under section 26(1) of the Registered Designs Act 1949, but relied on justification under section 26(2), which states that there is no threat if a claimant can demonstrate that an alleged threat is in relation to a valid registered design which would be infringed by a defendant's actions. However, in this case the relevant design right which the claimant argued was infringed was found invalid – therefore not allowing the claimant to rely on section 26(2) even if the defendants' activities might have constituted an infringement of the claimant's design.

**OHIM torpedo**

In addition to the problems of a threats action, when drafting a letter before action it is also worth remembering that the other side will necessarily be alerted of any potential infringement and may launch a pre-emptive strike against the registered mark or design.

Known as the 'OHIM torpedo', this is a cancellation action against the registration at OHIM in relation to Community registered rights, having the effect of suspending any subsequent, substantive court proceedings until the OHIM action is completed (which can take several years). Nowadays it is not uncommon for a claimant to issue proceedings before contacting the infringing party. There is no need to serve proceedings initially (and so start the litigation process), but the cost of issuing proceedings has to be factored into any decision and may only be suitable for more important cases.

Other ways of alleviating the effects of an OHIM torpedo are to rely only on any national registrations or on other unregistered rights (such as passing off).

**Author:**  
Verity Ellis



**In short**

The Intellectual Property (Unjustified Threats) Bill may be viewed by some as a missed opportunity for greater reform, in an area of law which was in dire need of updating. Great care will still need to be taken in drafting letters before action to potential infringers. It will be interesting to monitor the implementation of the new legislation and see how the courts interpret the various new provisions. Whilst it appears that there may still be elements which require further reform, it is hoped that, at least for now, the bill clarifies and modernises the law on unjustified threats.

**Useful link**

Consultation (22 October 2015 - 13 November 2015) 'Unjustified threats on intellectual property rights': <http://dycip.com/consultationthreats>

# Lookalike private label products

## A missed opportunity in the UK?

The UK Government has declined to implement private rights of action for brand owners, in its review of the Consumer Protection from Unfair Trading Regulations (CPRs).

### No private enforcement rights

Unlike most, if not all, other European Union countries when they implemented the European Unfair Commercial Practices Directive, the UK decided not to give an enforcement role to 'competitors'. As things currently stand, therefore, only public consumer protection authorities (notably Trading Standards) can take enforcement action under the CPRs.

Experience shows, despite the fact that blatant 'copycat' cases may be in breach of the CPRs (which prohibit misleading commercial practices that can cause an average consumer to take a different transactional decision), that the authorities are reluctant to pursue such matters. Understandably, in the current economic climate, they are under resourced and face a difficult task in prioritising what cases to pursue. Typically, therefore, they will not engage with 'lookalike' issues, which are viewed as essentially commercial disputes between competitors with little or no risk of harm to consumers.

### Passing off law does not assist

Equally, trade marks and the law of 'passing off' are inadequate to address the issue. Trade marks often do not appear on lookalike products. As to the limitations of passing off, this is perhaps most clearly demonstrated by a recent case in which the makers of Moroccan oil hair oil were unable to prevent the supermarket Aldi from selling a copycat haircare product with this very similar get-up (see images above right).

Therefore, without being able to invoke the CPRs themselves, brand owners are often left with no effective remedy in the UK (unless perhaps they have comprehensive registered design protection for the get-up of their products, which unfortunately for Moroccan oil it appears they did not).

### Images of the Moroccan oil Israel Ltd product and the Aldi Stores Ltd product



Figure 1: Moroccan oil Israel Ltd's product



Figure 2: Lookalike product sold by Aldi

### Government review

For the above reasons, The British Brands Group and other stakeholders have lobbied for many years for a change in the law, so as to permit private rights of action under the CPRs. They had hoped that, in its recent review of the issue, the UK Government's Department for Business Innovation and Skills (BIS) would recommend a legislative change.

Having now published its report, the BIS has concluded that the evidence suggests:

- "copycat packaging reduces consumers' ability to make accurate decisions. However, this does not confirm detriment;
- some consumers deliberately buy copycat products and a high proportion are happy with their purchase."

Accordingly, there appears to be no appetite on the part of the BIS for a change in the law and there is no recommendation to do so.

### Missed opportunity?

Many of our clients may feel this is a missed opportunity to rectify the situation and bring the UK into line with most other EU countries.

We are in a position where, although English law does recognise the illegality of certain copycat packaging which misleads consumers to make a different purchasing decision (in the CPRs), there is effectively no way of enforcing the law in practice. This is also despite the fact that competitors are willing to pay for enforcement

### Case details at a glance

**Jurisdiction:** England and Wales

**Decision level:** Intellectual Property Enterprise Court (IPEC)

**Parties:** Moroccan oil Israel Ltd v Aldi Stores Ltd

**Citation:** [2014] EWHC 1686 (IPEC)

**Date:** 29 May 2014

**Full decision:** <http://dycip.com/moroccanoilvaldi>

actions themselves, such that there would be no impact on the public purse.

Nevertheless, it seems that this issue has been kicked into the long grass and there is no prospect for reform for the foreseeable future. It is therefore more important than ever for rights holders for whom the UK is a key market, to focus on effective design protection (through the registered Community design (RCD) system) for the appearance of their products and packaging.

**Author:**  
Tamsin Holman



### In short

Private rights of action under the CPRs will not be introduced in the UK.

Be aware of the limitations of passing off under English law.

Use the RCD system to protect new designs (colour, shape, etc) of get-up and product packaging.

### Useful link

Consultation on consumer protection – copycat packaging – call for evidence (13 October 2015): <http://dycip.com/copycatconsultation>

# Cristal v Cristalino

## Court favours champagne and bursts the cava bubble

➤ Case details at a glance

**Jurisdiction:** England and Wales

**Decision level:** High Court of Justice  
Chancery Division Intellectual Property

**Parties:** Champagne Louis Roederer v J Garcia Carrion SA, Asda Stores Limited and WM Morrison Supermarkets Plc

**Citation:** [2015] EWHC 2760 (Ch)

**Date:** 06 October 2015

**Full decision:** <http://dycip.com/cristalvcristalino>

This article was first published in Spear's:  
<http://dycip.com/cristalvscristalino>

**F**rench company Champagne Louis Roederer (CLR) first created the Cristal brand back in 1876 at the request of Tsar Nicholas II of Russia. The champagne is sold in a distinctive, transparent crystal glass bottle with a flat bottom, requested by the Tsar amidst a fraught political climate to reduce the risk of would-be assassins hiding explosives in the base indentation of more common bottle shapes. The most explosive thing to happen to Cristal lately is that it has sued a Spanish company making and selling sparkling wine in the UK under the brand name Cristalino.

Cristal is a well-known brand in the luxury champagne market, selling at upwards of £175 per bottle off licence, and considerably more in restaurants and bars. Around half a million bottles are produced every year (compared with around 7.5 million bottles of Dom Pérignon), and in some years no bottles at all if the harvest is not of a sufficiently high standard. This gives the Cristal brand an aura of luxury and exclusivity not enjoyed by more mass market champagnes.

CLR sued the manufacturer of Cristalino cava back in 2010, claiming that consumers would be confused into thinking that Cristalino was in some way connected with Cristal, but also - due to the reputation of the Cristal brand - that the Cristalino product took unfair advantage of, and was detrimental to, the distinctive character or repute of Cristal.

Supermarket retailers Asda and Morrisons both stocked Cristalino and were also sued by CLR. They settled the case, but proceedings

against the manufacturer continued (and were not defended in any meaningful way). Judgment was handed down in early October 2015, and was a resounding victory for CLR.

The history and repute of Cristal were undoubtedly key factors. The brand has been sold in the UK since 1949 with around 40,000 bottles sold here every year. Although this amounts to less than 0.5 percent of the UK champagne market, the court held that Cristal enjoyed a significant reputation due to press and media exposure of the brand.

Survey evidence adduced by CLR showed that many consumers (most of whom were unlikely ever to have bought or even tasted the Cristal brand) still recognised the name as a brand of champagne. The court was particularly influenced by a 2006 story in the British newspaper 'The Mail on Sunday' describing the dilemma faced by an elite London club when they ran out of Cristal champagne just before the visit of some wealthy patrons. A private jet was flown to a club member's home in the South of France to collect some of his own stock. The article noted that the Cristal brand had been adopted as a status symbol by US rappers and other wealthy individuals. It is also the seventh most frequently mentioned brand in song lyrics (Cadillac is first).

Overall, the judge was impressed by the volume of press coverage generated by the Cristal brand, given the tiny proportion of the UK champagne market it occupied.

**Author:**  
**Matthew Dick**



### In short

In terms of trade mark infringement, the court held that there was a likelihood of confusion between Cristal and Cristalino - consumers would quite possibly assume that the latter was a brand extension of the former, perhaps being the diminutive 'second wine' in a family (such as Le Petit Cheval and Château Cheval Blanc), or a cheaper alternative produced by CLR.

The court held that use of the Cristalino mark would result in dilution and detriment to the distinctiveness of the Cristal brand, particularly when used in relation to cheap cava. The later brand would also be free-riding on the reputation of Cristal: evidence from several sources, including social media sites, showed consumers drinking Cristalino and jokingly pretending that it was Cristal, thereby benefitting Cristalino by associating it with the more prestigious product.

Champagne Louis Roederer, manufacturer of Cristal, sued J Garcia Carrion SA, manufacturer of Cristalino, in 2010



# Online copyright Hyperlinking and accessibility

The relationship between copyright and the online world is a complicated and evolving area, not least hindered by the fact that copyright legislation has to be moulded to scenarios which could never have been anticipated by its authors. This article will look to summarise two key online issues; hyperlinking and accessibility.

## Hyperlinking

There have been a number of recent cases in this area, which have begun to clarify the position for hyperlinking to a third party's content. The legal basis of this topic is whether hyperlinking is a "communication to the public" which is a protected right of a copyright owner under Article 3 of the Copyright (InfoSoc) Directive 2001/29/EC (implemented in the UK for the Copyright and Related Rights Regulation 2003, which amended the UK's Copyright, Designs and Patents Act 1998 (CDPA)).

The case of Svensson (C-466/12) held that linking to freely available content does not infringe copyright, on the basis that a 'new public' has not been provided access to such information. This decision was welcomed as common sense prevailing; confirming that 'every day' hyperlinking or framing does not constitute a communication to the public.

Bestwater (C-348/13) provided further illumination on what established a 'new public', stating that this was a public not taken into account by the copyright owner when it authorised the initial communication to the public. Bestwater also held that a communication by a different technical means may constitute a new communication to the public.

It was hoped that the case of C-More (C-279/13), which involved bypassing a paywall to live streaming of hockey matches, would develop this area further. However due to the previous decisions the court decided not to provide any further guidance. Nevertheless the court did hold that an act of communicating to the public means enabling a public to access a protected work at a time and place selected by them, ie,

## Case details at a glance

**Jurisdiction:** European Union  
**Decision level:** Court of Justice  
**Parties:** Nils Svensson, Sten Sjögren, Madelaine Sahlman, Pia Gadd v Retriever Sverige AB  
**Citation:** C-466/12  
**Date:** 13 February 2014  
**Full decision:** <http://dycip.com/c-46612>

**Jurisdiction:** Germany  
**Decision level:** Bundesgerichtshof  
**Parties:** BestWater International GmbH v Michael Mebes and Stefan Potsch  
**Citation:** C-348/13  
**Date:** 21 October 2014  
**Full decision:** <http://dycip.com/c-34813>

**Jurisdiction:** European Union  
**Decision level:** Court of Justice  
**Parties:** C More Entertainment AB v Linus Sandberg  
**Citation:** C-279/13  
**Date:** 26 March 2015  
**Full decision:** <http://dycip.com/c-27913>

**Jurisdiction:** European Union  
**Decision level:** Court of Justice  
**Parties:** Pez Hejduk v EnergieAgentur.NRW GmbH  
**Citation:** C-441/13  
**Date:** 22 January 2015  
**Full decision:** <http://dycip.com/c-44113>



'on-demand'. Therefore the 'live-streaming' would not fall under the Infosoc Directive; noting that member states may implement rights to prohibit such communications, as the UK has by Section 20 CDPA.

An outstanding issue is the relevance of the lawfulness of the linked content, ie, does a hyperlink to a work already made available without the copyright owner's consent constitute a communication to the public? There are some pending decisions (Playboy / GS Media) which hopefully will answer this question.

## Accessibility

On the issue of accessibility, the case of Hejduk (C 441/13) provides some guidance. This case concerned the interpretation of Article 5(3). The Court of Justice of the European Union (CJ) confirmed that a photographer, Ms Hejduk, whose photographs had been used without her permission on a German website, could commence infringement proceedings in Austria against the operators of the website, on the basis that the photographs on the website were accessible from Austria and therefore a harmful event occurred in Austria. In reaching this decision the CJ reiterated that it is irrelevant that the .de website in issue was not directed towards Austria as

there was no requirement in Article 5(3) that the activity be directed to the particular EU member state in question. The CJ did, however, confirm that the Austrian Court only had jurisdiction to rule on the damage caused to Ms Hejduk within Austria.

Whilst Hejduk clarifies the position in relation to copyright infringement it is unlikely to have wider application to, for example, trade mark infringement cases, where there will still be a requirement for use of an infringing sign in the course of trade in the member state concerned before a harmful event takes place and jurisdiction is conferred under Article 5(3) of the Brussels Regulation.

## Authors:

Anna Reid & Verity Ellis



## In short

It is hoped that the courts will provide some clarification and guidance in their decisions to the pending references, and the UK Government will take the opportunity of reforming copyright legislation to address this area.

# General Court orders its milk without cookies

## Complementarity revisited

Case details at a glance  
**Jurisdiction:** European Union  
**Decision level:** General Court  
**Parties:** Monster Energy Company v OHIM, the other party to the proceedings being Home Focus Development Ltd  
**Citation:** T-736/14  
**Date:** 28 October 2015  
**Full decision:** <http://dycjp.com/monstervohim>

Are biscuits, cakes and pastries similar to milk and coffee based beverages? In previous articles (see related articles below) we have looked at the not always consistent approach taken by the General Court (GC) in considering the similarity between two sets of goods.

### Monster Energy Company v Home Focus Development Ltd

Monster Energy Company, owner of the well known MONSTER brand, opposed the registration of the word sign MoMo MONSTERS filed for a wide range of goods and services. For the most part, they were successful but not in class 30 where the application covered confectionery; biscuits, cakes and pastries. The earlier Community word mark MONSTER registration was protected for milk-based and coffee-based beverages. The Opposition Division (OD) rejected the opposition for these goods and this decision was upheld by the Board of Appeal (BoA).

The matter came before the General Court. Monster Energy Company contended that the two sets of goods served the same purpose, were competing or complementary, were sold in the same premises, share the same distribution channels and were aimed at the same consumers.

The GC confirmed the issues to consider for the goods related to:

1. their nature;
2. their intended purpose and method of use;
3. whether they are in competition with each other or are complementary; and
4. the distribution channels of the goods concerned.

The GC held that the nature of the goods were clearly different, as was their intended purpose - one was for eating, the other for drinking. Regarding competition, there must be an element of interchangeability. As the two sets of goods have different purposes, the court held

there cannot be any interchangeability.

Finally, the court confirmed from previous case law that two goods are complementary where they are closely connected in the sense that one is indispensable or important for using the other, such that consumers may think that the same company is responsible for manufacturing those goods. Although biscuits, cakes and pastries may be consumed together with those beverages covered by the earlier mark, their use as such is optional and they are not absolutely indispensable for the consumption of those beverages.

The court therefore confirmed, rightly in our view, that there was no similarity between the goods.

Turning to the submissions regarding the products being sold in the same commercial establishments, sharing the same distribution channels and being intended for the same consumers, the GC stated that the evidence put forward by the applicant with regard to the identical nature of the distribution channels related only to certain specific outlets such as coffee shops.

Furthermore, as this evidence was not submitted during the procedure before the OD or the BoA and was only presented for the first time before the GC, the GC upheld OHIM's complaint that it was too late to be taken into consideration.

**Author:**  
**Jeremy Pennant**



### Related articles

Complementarity - What is it? November 2012: <http://www.dyoung.com/article-complementarity1112>

Hurrah for Chez Gerrard - The Right Evidence at the Right Time, July 2013: <http://www.dyoung.com/article-chezgarrard0713>

Mind the gap! Is the General Court's approach becoming detached from IP practice? November 2014: <http://www.dyoung.com/article-gcgap>

# Modernizing EU trade mark law

## A summary of reforms

Many readers will already be aware of the changes that are being made to the Community Trade Mark Regulation and Trade Mark Directive.

The European Commission decided that the Community trade mark system required modernization to make it more "effective, efficient and consistent as a whole and by adapting it to the Internet era".

We list the main changes below and shall be sending out a knowledge update with additional detail and recommendations in the near future.

1. Changes of name for the office, for Community trade marks, for the Community trade mark regulation and for the Community trade mark court in each member state; in short "Community" is replaced with "European Union" or "EU".
2. Removal of the requirement for graphic representability; a sign will be allowed to be represented in any available technology as long as it is possible to determine the clear and precise subject matter.
3. Extension of absolute grounds of refusal to apply the exclusions for registration of shapes also to other "characteristics".
4. Extension of absolute grounds of refusal to include designations of origin, geographical indications, protected traditional terms for wine and traditional specialities.
5. Extension of rights so as to prohibit use of a sign as a trade or company name.
6. Extension of rights so as to prohibit use of a sign in comparative advertising where that advertising is contrary to the misleading and comparative advertising directive.

[Continued overleaf]

And finally...

*Continued...EU trade mark law*

## Modernizing EU trade mark law A summary of reforms

7. Extension of rights so as to prohibit third parties from bringing goods into the EU bearing an infringing sign even where those goods are not being released for circulation.
8. Extension of rights so as to prohibit the affixing of an infringing sign to packaging, labels, and other means of identity.
9. Requirement for specifications of goods and services to be set out with adequate clarity and precision to make it clear for what a sign has been protected. General terms will be interpreted literally.
10. Cessation of the automatic search conducted of earlier EU marks as part of the application process.
11. Revision to own name defence to refer only to a natural person.
12. Changes to official fees; these include many reductions.
13. Revision of the relevant five year period for proof of use of the earlier mark in opposition proceedings to be that preceding the date of filing or the date of priority of the EU trade mark application, not the date of publication.
14. Introduction of EU certification marks.
15. Revision to permitted representation to allow a legal practitioner qualified in one of the member states of the European Economic Area (EEA) to act, rather than of the EU.
16. Establishment of a mediation centre to help parties settle.
17. Revision of the timing of the opposition period for International trade marks designating the EU to run from one month following the date of publication instead of six months following that date.

**Author:**  
**Jackie Johnson**



### Notes

Directive 2008/95/EC of 22 October 2008 to approximate the laws of the member states relating to trade marks' (TMD):  
<http://dycip.com/tmd2008>

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