

**DECISION
of the Second Board of Appeal
of 24 August 2026**

In case R 1446/2025-2

COMITÉ INTERPROFESSIONNEL DU VIN DE CHAMPAGNE, loi de 1941

5, rue Henri-Martin
51204 Épernay cedex
France

Opponent / Appellant

represented by ALTIUS, Avenue du Port 86 C B414, 1000 Brussels, Belgium

v

MONUMENT GRILL LLC

3 Atlantic Street, Plainsboro,
08536 New Jersey
United States

Applicant / Defendant

represented by A.BRE.MAR. S.R.L., Via Servais, 27, 10146 Torino, Italy

APPEAL relating to Opposition Proceedings No B 3 180 390 (European Union trade mark application No 18 726 840)

THE SECOND BOARD OF APPEAL

composed of C. Negro (Chairperson), S. Martin (Rapporteur) and H. Salmi (Member)

Registrar: K. Zajfert

gives the following

Decision

Summary of the facts

- 1 By an application filed on 4 July 2022, MONUMENT GRILL LLC ('the applicant') sought to register the figurative mark



as a European Union trade mark ('the EUTM') for the following list of goods:

Class 11: Searchlights; gas burners; disposable sterilization pouches; roasters; cookers; stoves; hot plates; roasting apparatus; griddles [cooking appliances]; grills [cooking appliances]; roasting apparatus; brackets for gas burners; barbecues; bread baking machines; hearths; cooking utensils, electric; cooking apparatus and installations; refrigerating appliances and installations; electric fans for personal use; flashlights [torches]; lighters (gas -).

- 2 The application was published on 8 July 2022.
- 3 On 7 October 2022, COMITÉ INTERPROFESSIONNEL DU VIN DE CHAMPAGNE, loi de 1941 ('the opponent') filed an opposition against the registration of the published trade mark application for all the above goods.
- 4 The grounds of opposition were those laid down in Article 8(6) EUTMR in relation to an alleged breach of Article 103(2)(a)(i) and (ii) as well as Article 103(2)(b) of Regulation (EU) No 1308/2013.
- 5 The opposition was based on the earlier PDO for the word 'CHAMPAGNE' protected for *wine* since 18 September 1973.
- 6 The opponent submitted extensive evidence and arguments concerning the reputation of the PDO 'CHAMPAGNE', which was summarised in the contested decision as follows.
 - Exhibit I: documents concerning the existence and validity of the earlier right, comprising mainly French laws, as well as extracts from the register of PDOs and PGIs established by Article 104 of Regulation (EU) No 1308/2013 and from the Official Journal of the EU.
 - Exhibit II: correspondence between the parties regarding the withdrawal of the trade mark application and refraining from any use of that name.

- Exhibit III: evidence concerning the ‘Champagne’ designation of origin, as follows.
 - Annex III A: materials edited and distributed by the opponent related to the history and production of wines from the Champagne region and more specifically about the PDO ‘Champagne’, namely:
 - Annex III.A.1: the wines of Champagne, ‘From lifestyle to wine styles’;
 - Annex III.A.2: champagne, ‘From Terroir to Wine’;
 - Annex III.A.3: a printout from the opponent’s website www.champagne.fr, dated 26/10/2010;
 - Annex III.A.4: printouts from the website of the Champagne Information Bureau in the UK, www.champagne-civc.co.uk, dated 25/10/2010.
 - Annex III.B: materials in relation to the reputation of the PDO ‘Champagne’, namely excerpts from publications by third parties commenting on the fame and prestige of the PDO ‘Champagne’, as follows:
 - Annex III.B.1: an excerpt (the foreword) from Michael Edwards, *The finest wines of Champagne. A guide to the Best Cuvées, Houses and Growers*, Fine Wine Editions, 2009;
 - Annex III.B.2: Christian Pessey, *L’ABCdaire du Champagne*, Flammarion, 2002;
 - Annex III.B.3: Angélique de la Chaise and Eric Glatre, *Champagne, le plaisir partagé*, Hoëbeke, 2000;
 - Annex III.B.4: James Turnbull, *Champagne Grandeur Nature*, E/PI/ Editions, 1998;
 - Annex III.B.5: Philippe Boucheron, *The independent traveller’s guide to Champagne*, Destination Champagne, Wine Destination Publications, 2005;
 - Annex III.B.6: ‘Karl Lagerfeld’s Tryst with Dom Perignon’, September 2006.
 - Annex III.C: facts and figures concerning the PDO ‘Champagne’:
 - Annex III.C.1: ‘Les expéditions de vins de Champagne en 2019, edited by the CIVC, available at www.champagne.fr (Champagne wine shipments in 2019), providing sales figures between 2010 and 2019, inter alia, in the EU;
 - Annex III.C.2: ‘Champagne – A major economic player 2020’;
 - Annex III.C.3: ‘Champagne – A major economic player 2021’;
 - Annex III.C.4: a printout from info@champagne.fr: ‘Champagne: 326 million bottles shipped in 2022 – cautious optimism for 2023’;

- Annex III.C.5: ‘Le Champagne dans le monde’ 2000-2009 (Champagne in the world 2000-2009);
 - Annex III.C.6: ‘Le Champagne en France métropolitaine’ 2000-2009 (Champagne in metropolitan France 2000-2009); DIN: 0074826203;
 - Annex III.C.7: ‘Le Champagne dans l'Union européenne’ 2000-2009 (Champagne in the European Union 2000-2009).
- Exhibit IV: case-law. The opponent has provided copies of decisions and judgments from various jurisdictions in the European Union, including:
 - France, e.g.: Court of Appeal of Caen, 28/10/2003, case No 02/2403, CIVC vs Hotel-Restaurant ‘Le Champagne’; District Court of Paris, 19/11/2002, case No 01/08137, CIVC vs Luc Chercheve (‘SANDWICHES ET CHAMPAGNE’); District Court of Nanterre, 24/06/2002, case No 00/13142, CIVC vs T&B (‘QUART DE CHAMP!’);
 - the Office, e.g.: Opposition Division, 31/01/2012, B 1 545 956, ‘Champarty’; Opposition Division, 27/01/2010, B 949 984, ‘Champagne and Roses’; Board of Appeal, 19/11/2008, R 251/2008-1, ‘Champagne and Roses’; Opposition Division, 01/03/2016, B 2 464 199, ‘Champagnecharly’; Opposition Division, 12/03/2013, B 2 010 398, ‘Rita & Champagne’; Opposition Division, 03/07/2013, B 1 805 079, ‘Champagnothèque’;
 - other jurisdictions, e.g.: Oberlandesgericht Munich, 06/11/2003, ChamPearl, GRUR RR 2004; Commercial Court of Stockholm, 29/08/2002, INAO – CIVC – Veuve Clicquot Ponsardin – Pierre Cheval/Arla Foods AB (‘Champagnesmak’); High Court of Justice, Chancery Division, 29/01/1993, F.S.R., 641, CIVC – Taittinger/Albev Ltd and opinion of LJ Peter Gibson (‘Elderflower Champagne’);
 - judgments of the General Court and the Court of Justice of the EU (establishing general principles and not involving a case similar to the present case).
- 7 By decision of 18 October 2023, the Opposition Division rejected the opposition.
 - 8 On 20 October 2023, the opponent filed an appeal against the contested decision, requesting that the decision be entirely set aside. The statement of grounds of the appeal was received on 16 February 2024
 - 9 By decision of 18 September 2024 (18/09/2024, R 2139/2023-2), the Second Board of Appeal annulled that decision, as the Opposition Division had failed to take into consideration the amendments introduced by Regulation 2021/2117 and therefore had decided the case on the basis of incorrect legislation.
 - 10 By decision of 12 June 2025 (‘the contested decision’), the Opposition Division rejected the opposition in its entirety.

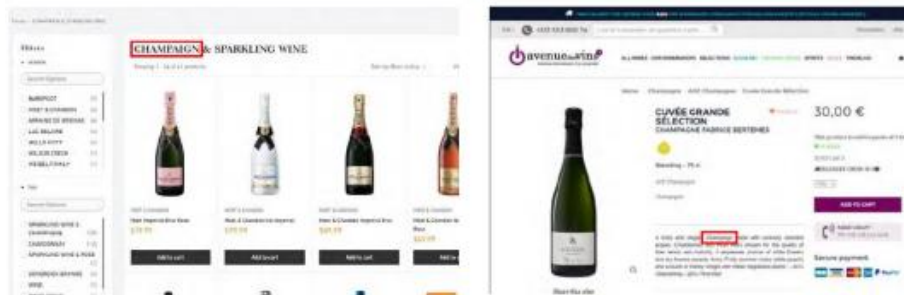
11 It gave, in particular, the following grounds for its decision.

- The Opposition Division confirmed that PDOs and PGIs for wines and other grapevine products protected under Regulation (EU) No 1308/2013, including the PDO ‘Champagne’, fall under Article 8(6) EUTMR). Moreover, it confirmed that the opponent had provided sufficient evidence of its entitlement to exercise the rights arising from the PDO ‘Champagne’ and to file the opposition. It also confirmed that the PDO is earlier than the contested sign. The outstanding reputation of the PDO was also confirmed.

Article 8(6) EUTMR in conjunction with Article 103(2)(a)(ii) of Regulation (EU) No 1308/2013 – Exploitation of reputation in relation to non-comparable products

- The goods under analysis, namely *utensils, apparatus and installations for lighting, heating, cooking, and/or refrigerating* in Class 11, on the one hand, and *wine*, on the other hand, are obviously not comparable. Furthermore, the opponent has established that the earlier PDO ‘Champagne’ enjoys an outstanding reputation in the relevant territory. Therefore, the Opposition Division will assess whether there has been use and exploitation of the reputation of that PDO.
- In the present case, the contested EUTM does not reproduce the whole PDO ‘Champagne’; it neither consists solely of the PDO ‘Champagne’ nor contains the whole PDO. It also contains other verbal or figurative elements, namely the representation of the last stroke of the letter ‘m’ in the shape of a cooking utensil. Although the signs are admittedly phonetically identical for at least part of the public, such as the English-speaking part, the signs cannot be considered visually and/or conceptually close to identical.
- In particular, the opponent claims that ‘Champaign’, being frequently used as the English translation of ‘Champagne’, will be perceived as such in the contested sign. It submitted the following evidence as Exhibit V in support of its claim:
 - an article from <https://www.quadcitiesbusinessnews.com> entitled ‘Understanding the difference between Champaign and Sparkling Wines’, dated 26/01/2018;
 - an article published on a Russian website entitled ‘Champaign is served, Cheers!’;
 - an article from a website in the Netherlands entitled ‘Champaign Drinks, 2009’;
 - screenshots from the websites of alcoholic beverage retailers of unknown location, as well as inside and outside the relevant territory, showing the

denomination ‘Champaign’ along with pictures seemingly of bottles of Champagne wine, such as the following:



- However, in the present case, the sign applied for consist of a figurative mark in which the letter ‘m’ of the denomination ‘Champaign’ partly consists of a figurative element representing a cooking utensil. Furthermore, it can be safely assumed that this cooking utensil will clearly and immediately be perceived as evoking the act of ‘cooking’ by the whole relevant public. Therefore, the visual impression and semantic concept conveyed by the signs cannot be considered the same and display significant differences, allowing the consumers to distinguish the contested sign from the earlier PDO.

On the exploitation of the reputation of the PDO ‘Champagne’

- There is no doubt that the goods in the present case are entirely different (wine versus utensils, apparatus and installations for lighting, heating, cooking, and/or refrigerating in Class 11). The opponent’s argumentation in relation to the contested goods is scant and is limited to rather general statements and principles, most of which actually refer to principles concerning trade marks and are, therefore, irrelevant. Furthermore, even when referring to relevant case-law and principles, the opponent fails to demonstrate their application to the present case and puts forward very few factual or actual arguments.
- All in all, it could be inferred from the opponent’s argumentation that there would be almost automatic exploitation of the PDO’s reputation and its image of excellence whatever the nature of the goods concerned, and that the opponent believes that an exploitation of the PDO ‘is all the more the case as the goods applied for in Class 11 essentially consist of cooking apparatus’. In the opponent’s view, these ‘are therefore closely related to foodstuffs, that are often consumed together with wine, including Champagne wines’ and ‘the probability of a non-hypothetical future risk of unfair advantage being taken by the mark applied for is so obvious in the present case that the opponent does not need to put forward or adduce evidence to that end’.
- However, the opponent failed to adduce evidence and/or, at least, to develop a cogent line of argument to demonstrate specifically how, taking into account the signs, the goods in question and all the relevant circumstances, the use of the contested sign in relation to *searchlights; gas burners; disposable sterilization pouches; roasters; cookers; stoves; hot plates; roasting apparatus; griddles [cooking appliances]; grills [cooking appliances]; roasting apparatus; brackets for gas burners; barbecues; bread baking machines; hearths; cooking utensils, electric; cooking apparatus and installations; refrigerating appliances and installations; electric fans for personal*

use; flashlights [torches]; lighters (gas -) would result in exploitation of the reputation of the PDO ‘Champagne’. This is by no means obvious or self-evident, especially given that the goods are so different and occupy entirely distinct market sectors.

- The line of reasoning submitted by the opponent concerning the contested sign’s exploitation of the reputation of the PDO merely refers to the similarity between the earlier PDO and the contested sign; the opponent claims that the use of the contested sign would allow the applicant to benefit from clearly advantageous associations with the name ‘Champagne’ for some goods (cooking apparatus and installations; refrigerating appliances and installations), while the use of the contested sign for goods such as searchlights and gas burners would dilute and weaken the remarkable reputation of ‘Champagne’. However, the opponent did not offer any compelling explanation (or evidence) as to why this would be the case.
- As the opponent failed, according to Article 95(1) EUTMR, to adduce evidence and/or at least to develop a cogent line of argument to demonstrate specifically how, taking into account the signs and all the relevant circumstances, the use of the contested sign would result in exploitation of the reputation of the PDO ‘Champagne’, this claim must fail. Furthermore, the applicant’s claim that such use would, by definition, dilute the reputation of the PDO is unsubstantiated and in any event, ineffective. Therefore, the opposition based on Article 8(6) EUTMR, taken in conjunction with Article 103(2)(a)(ii) of Regulation (EU) No 1308/2013, must be rejected.

Article 8(6) EUTMR in conjunction with Article 103(2)(b) of Regulation (EU) No 1308/2013 – Evocation

- The opponent also claims that the contested EUTM application must be considered at least an evocation of the PDO.
- The goods in question are not comparable. Although the opponent refers to their being related to food and beverages, which is partially true, this lacks any relevance for the assessment of the likelihood of a link with the earlier PDO, in the absence of any argument regarding their possible proximity.
- The opponent mainly emphasises that the contested sign shares over eight of the nine letters of the PDO, in the same order, and therefore the signs are visually and aurally highly similar. In addition, it argues that since the word ‘CHAMPAIGN’ is commonly used as an English translation for ‘CHAMPAGNE’, the contested sign is conceptually identical to the PDO ‘Champagne’ and therefore there is necessarily an ‘evocation’ of the PDO (26/02/2008, C-132/05, Commission v Germany; Parmigiano Reggiano,, EU:C:2008:117, § 47).
- In that connection, following the opponent’s line of argument and the evidence submitted in support, even if it were assumed that ‘CHAMPAIGN’ is a commonly used translation for ‘CHAMPAGNE’ (which is not apparent), it can only be inferred from the evidence that the word ‘Champaign’ in the context of wine retail could be perceived as referring to ‘Champagne’. In the contested sign, however, it is unlikely that the word ‘Champaign’ will call the wine protected by the PDO ‘Champagne’ to the minds of consumers, in view of the stylisation of the letter ‘m’, which features a

cooking utensil device, and because the contested goods in Class 11 are entirely different from wine.

- In this respect, it is clear that the contested goods do not include any beverages or foodstuffs, and they are completely different from or very remotely related to these goods. Therefore, the criteria established by the Court and referred to by the opponent in assessing the degree of proximity of the relevant goods, consisting in the actual physical appearance or the ingredients and taste of the products covered by the EUTM application and the protected designation, are clearly not applicable to the present case. Moreover, the opponent neither developed a cogent line of argument nor adduced evidence in support of its claim that ‘there is some proximity between the goods at issue which, while being not comparable, are related to foodstuffs, beverages and cooking’. As such, it is not a convincing argument.
- In the Opposition Division’s view, bearing in mind the specific graphic representation of the contested sign featuring a cooking utensil, the fact that the goods in question include refrigerating appliances and installations and various cooking appliances makes it less, rather than ‘even more’, likely that the relevant public will establish a sufficiently clear and direct link with the earlier PDO, as these goods are different from the earlier wine. Although the abovementioned refrigerating appliances and installations may admittedly be used to store wine, the contested goods and the wine covered by the earlier PDO are very different in terms of their nature, physical appearance, method of fabrication/elaboration and purpose. In addition, the opponent did not argue or present any evidence that the contested refrigerating apparatus, for example, is distributed through the same channels or could come from the same undertakings as the earlier wine, and this is not a well-known fact on which the Opposition Division could rely *ex officio*. Finally, for the sake of completeness, although the relevant public will most probably not perceive this meaning in the contested sign, ‘CHAMPAIGN’ also refers to ‘an expanse of level open country’. This makes it unlikely, as the opponent claims, that ‘the sign ‘CHAMPAIGN’, amongst all available commercial names, was chosen deliberately to exploit the reputation of the PDO ‘CHAMPAGNE’ – that is to say, with the aim of diverting onto the applicant’s goods the image of prestige and celebration conveyed by that PDO.
- In the present case, the opponent did not put forward any coherent line of argument or evidence concerning the possible perception of the contested sign and the alleged evocation. The Opposition Division finds it unlikely, in view of the conceptual difference between the signs introduced by the contested sign’s stylisation, and the lack of proximity between the goods in question, that the contested sign displayed on the contested goods in Class 11 calls to mind the wine protected under the PDO ‘Champagne’.
- Therefore, the fact that both signs coincide in the letters ‘Champa*gn*’ is, in this case, not sufficient for the public to make a clear and direct connection between the contested EUTM, in the context of the contested goods, with the protected wine coming from the Champagne region.
- This conclusion is not called into question by the numerous decisions cited by the opponent, as the circumstances, facts and evidence on which these cases were assessed differ from those in the present case. The outcome of any particular case will depend

on specific criteria applicable to the facts of that particular case, including the parties' assertions, arguments and submissions, and each case must be dealt with separately and with regard to its particularities.

- It follows that the contested EUTM application does not amount to evocation of the earlier PDO within the meaning of Article 103(2)(b) of Regulation (EU) No 1308/2013, or that there is misuse or imitation of the earlier PDO in the contested sign, and therefore the opposition based on Article 8(6) taken in conjunction with this provision must be rejected.
- 12 On 11 August 2025, the opponent filed an appeal against the contested decision, requesting that the decision be entirely set aside.
- 13 On 13 October 2025, the statement of grounds of the appeal was received. Together with its statement of grounds, the opponent submitted a large number of enclosures, as follows.
- Folder 1: on the existence and validity of the earlier PDO 'Champagne'.
 - Folder 2: correspondence concerning the contested sign.
 - Folder 3: the PDO 'Champagne': figures, reputation and sales volumes in the EU.
 - Folder 4: relevant case-law in France and other Member States and at the Office:
 - District Court of Paris, 5 March 1984, case No A.R. 7147 9227-82, CIVC – Pol Roger v SEITA, and translation ('CHAMPAGNE CIGARETTE');
 - Court of Appeal of Caen, 28 October 2003, case No 02/2403, CIVC v Hotel-Restaurant 'Le Champagne' (and English translation);
 - District Court of Paris, 19 November 2002, case No 01/08137, CIVC v Luc Chercheve ('SANDWICHES ET CHAMPAGNE') (and English translation);
 - District Court of Nanterre, 24 June 2002, case No 00/13142, CIVC v T&B ('QUART DE CHAMP !') (and English translation);
 - District Court of Paris, 27 January 2009, RG No 08/15962, CIVC and INAO v Rothwell Properties Limited and others (and English translation);
 - 31/01/ 2012, B 1 545 956, 'CHAMPARTY';
 - 27/01/2010, B 949 984-1, 'CHAMPAGNE AND ROSES' (and English translation);
 - 19/11/2008, R 25/2008-1, 'CHAMPAGNE AND ROSES' (and English translation);
 - 15/05/2008, R 1171/2008-4, 'ROYAL COGNAC';
 - 01/03/2016, B 2 464 199, 'CHAMPAGNECHARLY';
 - 03/07/2013, B 1 805 079, 'CHAMPAGNOTHÈQUE' (and English translation);

- 01/02/2012, R 1331/2011-4, ‘NUERNBERGA’ (and English translation);
- 12/12/2003, 279C, ‘EXTRA-MILD BERGAZOLA’;
- 09/07/2015, R 1944/2014-2, ‘FRAY LEON’;
- 06/10/2004, 609C, ‘RONCARIFORT’ (and English translation);
- 17/04/2020, R 1132/2019-4, ‘CHAMPAGNOLA’;
- 21/12/2020, B 3 102 239, ‘CHAMPAWS’;
- 10/06/2021, B 3 124 209, ‘HEMP SECCO’;
- 28/10/ 2021, R 1101/2019-1, ‘PERISECCO’;
- 07/10/2019, B 3 059 890, ‘CRUSSECO’;
- 18/11/2021, B 3 091 533, ‘CHAMP CHAMP’;
- 06/09/2023, C 54 543, ‘SHINON’;
- Oberlandesgericht Munich, 6 November 2003, ‘CHAMPEARL’ GRUR RR 2004 (and English translation);
- Commercial Court of Stockholm, 29 August 2002, INAO – CIVC – Veuve Clicquot Ponsardin – Pierre Cheval v Arla Foods AB (‘CHAMPAGNESMAK’) (and English translation);
- High Court of Justice, Chancery Division, 29 January 1993, F.S.R., 641, CIVC – Taittinger v Albev Ltd and opinion of LJ Peter Gibson (‘ELDERFLOWER CHAMPAGNE’).
- Folder 5: link between champagne wine and other goods (V1-V12):
 - examples of uses of ‘CHAMPAIGN’ as an English synonym for ‘CHAMPAGNE’;
 - examples of recipes using Champagne as an ingredient;
 - excerpts of articles on food pairing with Champagne;
 - examples of food pairing guidelines issued by Champagne houses;
 - excerpts on the use of the terms ‘Champagne breakfast’, ‘Champagne dinner’ and ‘Champagne picnic’;
 - examples of events, fairs, workshops and professional exhibitions devoted to the pairing of food and Champagne (part 1);
 - examples of events, fairs, workshops and professional exhibitions devoted to the pairing of food and Champagne (part 2);

- Piper-Heidsieck BBQ;
- KRUG in the Kitchen;
- Veuve Clicquot cooler;
- Veuve Clicquot x SMEG refrigerator;
- Pol Roger x Blastcool refrigerators;
- Champagne and New Years Eve 6 104 (§ 159).
- Folder 6: other (VI.1.-VI.4.)
 - examples of uses of ‘CHAMPAIGN’ as an English synonym for ‘CHAMPAGNE’ (part 1);
 - examples of uses of ‘CHAMPAIGN’ as an English synonym for ‘CHAMPAGNE’ (part 2);
 - declarations from experts and practitioners in amongst others the fields of winemaking, gastronomy, kitchen equipment and catering;
 - Union des Maisons de Champagne, ‘The proper way to chill Champagne’;
 - reports by legal scholars on the contested decision.

14 No response was filed by the applicant.

Submissions and arguments of the opponent

15 The arguments raised in the statement of grounds may be summarised as follows:

- According to Article 8(6) EUTMR, a trade mark applied for cannot be registered where, and to the extent that, pursuant to the EU legislation or national law providing for the protection of protected designations of origin (‘PDO’) or protected geographical indications (‘PGI’):
 1. the opponent is authorised under the relevant law to exercise the rights arising from a PDO or PGI;
 2. an application for a PDO or a PGI had already been submitted, in accordance with Union legislation or national law, prior to the date of application for registration of the EU trade mark or the date of the priority claimed for the application, subject to its subsequent registration;
 3. that PDO or PGI confers the right to prohibit the use of the contested trade mark.
- Provided that these three conditions are fulfilled, the opposition must be upheld and the contested EUTM must be rejected.

- Proof of a risk of confusion is not required to be able to rely on Article 103(2)(a) or (b) of Regulation (EU) No 1308/2013. The scope is not limited to comparable goods.

Use of PDO for dissimilar goods

- The use of a trade mark containing a PDO/PGI or a term corresponding to that PDO/PGI for goods that do not comply with the corresponding specifications constitutes, in principle, direct commercial use of that PDO/PGI.
- The opponent does not deny that the goods in Class 11 covered by the contested EUTM are not ‘comparable’ to the wines which benefit from the ‘CHAMPAGNE’ PDO, so that Article 103(2)(a)(i) of Regulation (EU) No 1308/2013 does not apply to the present case. This does not mean, however, that the goods concerned do not show some degree of proximity (17/04/2020, R 1132/2019-4, CHAMPAGNOLA)
- In the present case, there is a considerable degree of proximity between the relevant goods in Class 11 and Champagne wines. Champagne wine, Champagne sommellerie (wine waiting) and Champagne-related food pairing are closely intertwined with the culinary arts on which the relevant goods in Class 11 also have a bearing. The public that will encounter the PDO and the relevant goods overlaps.
- Contrary to the Opposition Division’s finding, the ‘PORT CHARLOTTE’ case-law therefore cannot be transposed to the present case, either in law or with regard to the facts.
- First of all, the opponent refers to the product specification of the PDO ‘CHAMPAGNE’, which sets out historic features on which the reputation of the ‘product’ that is the object of the product specification of the PDO has been built.
- As is clear from the product specification (‘champagne was the ornament of parties and dinners. This reputation continues to this day’), wines under the PDO ‘Champagne’ enjoy a specific reputation within the arts of the kitchen, more specifically as a wine that pairs and complements and interacts with gastronomy in various ways.
- Already in the 18th and 19th centuries, Champagne was closely associated with banquets, dinners, receptions, and the emergence of modern haute cuisine in France and beyond.
- This historical and cultural connection between Champagne and gastronomy continues to this day, as demonstrated by its prominence in culinary literature, recipes and food-pairing practices, professional guidelines and gastronomic events (see, inter alia, Exhibits V.1, V.2, V.3, V.4, V.5 and V.6. The opponent refers to the reputation and well-known character of the PDO.

Figurative element

- The Opposition Division entirely disregarded the verbal element of the contested EUTM and focused exclusively on the figurative element, even though the latter: (i) will not be pronounced and is, therefore, totally irrelevant phonetically; (ii) is far

from the dominant component of the contested EUTM visually; and (iii) does not confer on the visual component a meaning which would by itself rule out any link with the PDO ‘Champagne’ in the mind of the relevant consumer.

- In the present case, the figurative element of the contested mark, rather than creating ‘significant differences’ between the signs at issue, actually reinforces the conceptual identity between them, as it emphasises a certain degree of proximity between the goods in question, which are related to cooking, food and beverages.

The PDO is used in a form that is phonetically and visually highly similar

- The verbal element ‘CHAMPAIGN’ is visually almost identical to the PDO. It is phonetically identical in most official languages of the European Union (including, but not limited to, English), and almost identical in the other languages. The structure, rhythm and intonation of both signs are very similar.
- Conceptually, ‘CHAMPAIGN’ is identical to ‘CHAMPAGNE’, as it is frequently used as an English translation for the PDO ‘Champagne’ (Exhibits VI.1.a and VI.1.b). ‘CHAMPAIGN’ consists of a very basic English word that will be widely understood by the relevant public throughout the European Union, especially since identical or similar terms exist in many languages of the EU with the same semantic content (*champanhe* in Portuguese; *šampaňské* in Czech; *champagne* in Danish, Dutch, Italian and Swedish; *champán* in Spanish; *samppanja* in Finnish; *Champagner* in German; *σαμπάνια* in Greek; *szampan* in Polish; and *șampanie* in Romanian). For those consumers who do not understand (even basic) English, it is highly likely that they will perceive the word ‘CHAMPAIGN’ as a misspelling of the French word ‘CHAMPAGNE’

Conceptual assessment and the use of ‘CHAMPAIGN’

- Regarding the conceptual assessment, the Opposition Division considered that it ‘remains unproven’ that the verbal element ‘CHAMPAIGN’ corresponds to a translation or misspelling of ‘CHAMPAGNE’.
- The Opposition Division did not take the evidence (Exhibit VI.1.b; VI.1.a) such as that where ‘CHAMPAIGN’ is publicly used on social media but also in historic books and announcements, as well as advertisements, wine listings of restaurants and bars, store descriptions, scientific publications, etc. There are also EUTM applications that were withdrawn due to the opponent’s actions. For those consumers who do not understand (even basic) English, it is highly likely that they will perceive the word ‘CHAMPAIGN’ as a misspelling of the French word ‘CHAMPAGNE’ (see the declarations in Exhibit VI.2.).

The alleged lack of proof that use of the contested EUTM might exploit the reputation of the PDO ‘Champagne’

- The opponent considers that it has adduced sufficient evidence and developed a cogent line of argument for the purpose of this demonstration.

- The opponent refers to relevant principles: the stronger the reputation of the PDO, the easier exploitation must be accepted (11/12/2014, T-480/12, Master/Coca Cola et al., EU:T:2014:1062; 07/10/2015, T-534/13, Krispy Kreme DOUGHNUTS (fig.), EU:T:2015:751).
- The opponent holds that the contested goods do in fact enjoy proximity to wine of the PDO ‘Champagne’. It also lists abundant case-law on the requirements of Article 103(2)(a) of Regulation (EU) No 1308/2013.
- The interrelation between Champagne wine and the culinary arts and atmosphere as illustrated is very relevant. The various goods in Class 11 bearing the contested trade mark would exploit the renown of the PDO ‘Champagne’ based, inter alia, on the connection with culinary achievement for which the relevant goods are used; the applicant, however, has in no way participated in the acquisition of the renown that has been vested in the PDO ‘Champagne’ throughout its history.

Evidence and/or cogent line of argument to establish exploitation of the reputation of the PDO ‘Champagne’

- The opponent has adduced sufficient evidence and developed a cogent line of argument for the purpose of this demonstration.
- The opponent submits that this exploitation should more easily be assumed, on the basis of prognoses, where, as in the present case, the PDO or PGI relied upon enjoys an exceptional reputation. In this context, the fact that the PDO ‘Champagne’ undoubtedly is one of the most renowned PDOs throughout the European Union (and beyond), and that it conveys a very specific image of quality, refinement, luxury, prestige, and culinary pairing, is highly relevant when assessing whether a trade mark applied for is likely to exploit that outstanding reputation.
- The strength of the PDO’s reputation, the degree of similarity between the signs and the proximity of the goods concerned undoubtedly lead to the conclusion that there is exploitation of reputation in the present case.

Proximity of the goods

- In relation to cooking and roasting appliances (*roasters; cookers; stoves; hot plates; roasting apparatus; griddles; grills; barbecues; bread-baking machines; cooking utensils, electric; cooking apparatus and installations; gas burners; brackets for gas burners; hearths*), there is a clear functional complementarity between these goods and wines, including Champagne. These appliances are directly involved in the preparation of meals and dishes that are either made using wines or that are traditionally paired or served with wines.
- There are numerous cooking books and culinary publications dedicated to Champagne cuisine, containing over thousands of recipes that use or dishes that pair well with Champagne (Exhibit V.1). This illustrates the wine’s historical and contemporary role in gastronomy.

- Beyond the classic pairings with Champagne, such as oysters or caviar, there is an abundance of recipes accessible online that use Champagne as an ingredient (Exhibit V.2).
- Gastronomic media and publications consistently associate Champagne with kitchen preparations and dining experiences, in particular paired with barbecue, grilled dishes and seafood (Exhibit V.3). Numerous Champagne houses (Exhibit V.4) as well as the CIVC (Exhibits III.A.16 to III.A.18) have published food-pairing guidelines.
- Expressions such as ‘Champagne breakfast’, ‘Champagne dinner’ and ‘Champagne picnic’ are well established in everyday language, underlining the close link between Champagne wine and culinary arts (Exhibit V.5).
- Numerous events, workshops, fairs and professional exhibitions reflect the combination of culinary arts and Champagne (Exhibits V.6.a and V.6.b).
- Some renowned Champagne houses have further emphasised this specific connection between Champagne and kitchen hardware (Exhibits V.7. and V.8.).
- *Refrigerating appliances and installations* are directly used to store and preserve wines such as Champagne wines. Such equipment is indispensable for ensuring the correct serving temperature of Champagne, an essential element of its consumption (Exhibit VI.3). From a functional perspective, refrigeration thus forms an integral and complementary part of the wine-drinking process.
- There are numerous ice jacket and cooler systems designed specifically for Champagne wine (Exhibit V.9).
- The opponent refers to the Veuve Clicquot x SMEG collaboration between a Champagne house and a manufacturer of refrigerators (Exhibit V.10).
- Another illustrative collaboration in this respect is Pol Roger x Blastcool (Exhibit V.11), among other examples.
- Finally, outdoor equipment (*searchlights; flashlights [torches]; electric fans for personal use; lighters (gas –)*) is typically used in outdoor dining and social settings such as garden parties, barbecues, and picnics, where Champagne is a beverage of choice.
- Culinary and lifestyle media frequently promote Champagne pairings with grilled and barbecued dishes, reinforcing the association between such goods and Champagne wine consumption (Exhibits V.3.c and V.3.g)
- Both Champagne and outdoor products share a conceptual and emotional link to conviviality, festivity (weddings, anniversaries, New Year’s Eve (Exhibit V.12), graduations, banquets, award ceremonies and other moments of celebration and success), and shared enjoyment.
- Functionally, items like lighters, fans, and lighting appliances enable or enhance the very occasions during which Champagne is served (e.g. New Year lighting and birthday candles), confirming the contextual and perceptual proximity between such

appliances and Champagne wines. The opponent provides pictures included in the library of the Union des Maisons de Champagne.

Unfair advantage

- The fact that the PDO ‘Champagne’ undoubtedly is one of the most renowned PDOs throughout the European Union (and beyond), and that it conveys a very specific image of quality, refinement, luxury and prestige, is highly relevant when assessing whether a trade mark applied for is likely to exploit that outstanding reputation.
- The evidence adduced by the opponent shows that the PDO ‘Champagne’ enjoys an exceptional reputation in the European Union, and therefore, on seeing the contested trade mark ‘CHAMPAIGN’ in relation to the contested goods in Class 11, the relevant public will immediately think of the PDO.
- Therefore, the use of the contested sign consisting of the element ‘CHAMPAIGN’ for the goods at issue in Class 11 would take unfair advantage of, and exploit, the enormous repute enjoyed by the wines bearing the PDO ‘Champagne’ among European Union consumers.

Weakening and/or dilution of the reputation of the PDO ‘Champagne’

- The association of Champagne wine with such goods as (but not limited to) gas burners and brackets for gas burners and lighters would, without any doubt, weaken the reputation of the PDO. Although most products covered by the contested EUTM are kitchen-related tools and appliances, the association with the PDO ‘Champagne’ implies antagonisms and (at least) vulgarisations in terms of image and sensations which will invariably lead to the whittling away of the reputation of that PDO.
- Any use of the contested EUTM for goods that are not comparable to wines would, by definition, dilute the reputation of the PDO. Use of the contested mark would, indeed, ‘lead to dispersion of the identity and hold upon the public mind’ of the earlier PDO (judgment of District Court of Paris, Exhibit IV.A.3).
- Since the contested EUTM would weaken or dilute the repute of the PDO ‘Champagne’, it follows that it must be refused registration pursuant to Article 8(6) EUTMR in combination with Article 103(2)(a)(ii) of Regulation (EU) No 1308/2013.

Article 103(2)(b) Regulation (EU) No 1308/2013 – Misuse, imitation, or evocation of the PDO ‘Champagne’

- The Opposition Division found that the opponent did not sufficiently demonstrate the possible perception of the contested sign and the evocation within the meaning of Article 103(2)(b) of Regulation (EU) No 1308/2013. The opponent submits the relevant principles and refers to case-law. The concept of ‘association’ under trade mark law is therefore essentially identical to that of ‘evocation’ under Article 103(2)(b) of Regulation (EU) No 1308/2013.

- In the present case, the following must be considered.
 - There is a high degree of visual and phonetic similarity between the contested EUTM ‘CHAMPAIGN’ and the PDO ‘Champagne’.
 - The trade mark ‘CHAMPAIGN’ incorporates a significant part of the PDO ‘Champagne’: the contested sign shares eight of the nine letters of the PDO, in the same order.
 - The presence of the second syllable ‘PAIGN’ cannot overcome the concept of ‘evocation’, since it does not confer on the sign ‘CHAMPAIGN’ as a whole an autonomous meaning that would clearly distinguish it from the PDO ‘Champagne’. The signs are conceptually identical.
 - Indeed, the contested EUTM is frequently used by third parties as an English translation for ‘CHAMPAGNE’ (Exhibits VI.1.a and VI.1.b). The conceptual identity between both signs is, in any case, obvious when they are pronounced, since both signs are phonetically identical at least for the English-speaking part of the relevant public (see paragraphs 51 and 230). When the sign applied for is conceptually identical to a PDO or PGI, it amounts to an ‘evocation’ of that PDO or PGI.
 - The PDO ‘Champagne’ has acquired an outstanding reputation and prestige throughout the European Union.
 - Although this is not required by law, there is some proximity between the goods at issue which, while being not comparable, are related to cooking, foodstuffs and beverages (see Section C.1.3(iii)(c)).
 - The CJEU has pointed out that it is possible for a PDO to be evoked even where there is no likelihood of confusion between the relevant goods (04/03/1999, C-87/97 P, CAMBOZOLA, EU:C:1999:115, § 26)
- The Opposition Division manifestly erred in law by basing its finding on mere assumptions regarding the perception of the relevant public, without providing any evidence or identifying any well-known facts supporting that conclusion, and although the applicant had not raised any such argument. Given the common usage of the term ‘Champagne’, it is not likely that the average English-speaking consumer would attribute to it the meaning of ‘an expanse of level open country’. The opponent presents extracts from Wiktionary, the *Oxford English Dictionary* and *Merriam-Webster* confirming the connection between ‘Champaign’ and the PDO.
- The depiction of a kitchen spatula unmistakably evokes the culinary, gastronomic or oenological sphere. The relevant public, upon seeing this small figurative element in conjunction with the verbal element ‘CHAMPAIGN’, will be more inclined to think of food and drink products, and in particular of wines – not of ‘open countryside’.
- It is obvious that the goods at issue, insofar as they essentially concern cooking utensils and cooking apparatus and are, as such, somehow related to food and beverages, do show a certain degree of proximity with the wines bearing the PDO ‘Champagne’ (17/04/2020, R 1132/2019-4, CHAMPAGNOLA).

Conclusion

- The opponent has established above that use of the contested EUTM would indeed exploit the reputation of the PDO ‘Champagne’. As for the applicant’s intention, suffice it to say that it is highly unlikely, in light of the nature of the goods in Class 11 covered by the contested EUTM (which are all directly or indirectly related to the field of cooking), that the contested EUTM was chosen for its alleged reference in Old English to ‘an expanse of level open country’.
 - Consequently, should the Board of Appeal consider that the contested EUTM does not ‘use’ the PDO ‘Champagne’, it is obvious that, at the very least, it amounts to an ‘evocation’, ‘imitation’ or ‘misuse’ of the PDO. It follows that it must be refused registration pursuant to Article 8(6) EUTMR in combination with Article 103(2)(b) of Regulation (EU) No 1308/2013.
- 16 By a communication of the Rapporteur of 2 March 2026, the opponent was requested to submit a translation of Exhibit VI.2 into the language of proceedings. The opponent was informed that the Board, at this stage, had not ruled on the admissibility of these declarations. The opponent submitted the translation on 1 April 2026, and it was forwarded to the applicant for comments. The applicant did not file any comments in reply.

Reasons

- 17 The appeal complies with Articles 66, 67 and Article 68(1) EUTMR. It is admissible.

Applicable law

- 18 The application for the contested mark was filed on 4 July 2022.
- 19 The opposition must be assessed on the basis of Regulation (EU) No 1308/2013 as amended by Regulation (EU) 2021/2017 of the European Parliament and of the Council of 2 December 2021 which came into force on 07/12/2021 (see Article 6 of Regulation (EU) 2021/2117).

Infringement of Article 8(6) EUTMR read in conjunction with Article 103(2)(a)(ii) of Regulation (EU) No 1308/2013 (as amended)

- 20 According to Article 8(6) EUTMR, upon opposition by any person authorised under the relevant law to exercise the rights arising from a designation of origin or a geographical indication, the trade mark applied for must not be registered where and to the extent that, pursuant to the Union legislation or national law providing for the protection of designations of origin or geographical indications:
- (i) an application for a designation of origin or a geographical indication had already been submitted, in accordance with Union legislation or national law, prior to the date of application for registration of the EU trade mark or the date of the priority claimed for the application, subject to its subsequent registration;
 - (ii) that designation of origin or geographical indication confers the right to prohibit the use of a subsequent trade mark.

21 Article 103 of Regulation (EU) No 1308/2013, as amended, reads as follows:

- a) any direct or indirect commercial use of that protected name, including the use for products used as ingredients:
 - (i) by comparable products not complying with the product specification of the protected name; or
 - (ii) in so far as such use exploits, weakens or dilutes the reputation of a designation of origin or a geographical indication ...

The earlier PDO

- 22 It is undisputed that the PDO ‘Champagne’ is protected under Regulation (EU) No 1308/2013 for *wine*.
- 23 It is also undisputed that the invoked PDO ‘Champagne’ is earlier than the contested sign.

Legal standing of the opponent

- 24 As recognised by the Opposition Division, the opponent has provided sufficient evidence of its respective entitlement to exercise the rights arising from the PDO ‘Champagne’ and, in particular, to file the present opposition.
- 25 In passing, it must be noted that this entitlement has been acknowledged by the Boards and the Office on various occasions (17/02/2023, R 531/2022-2, NERO CHAMPAGNE / Champagne (GI); 17/04/2020, R 1132/2019-4, Champagnola / Champagne; 12/12/2024, B 3 207 890, CHAMPRICE / CHAMPAGNE; 21/12/2020, B 3 102 239, CHAMPAWS / CHAMPAGNE).

Article 103(2)(a)(ii) of Regulation (EU) No 1308/2013 – Commercial use of the earlier PDO in relation to non-comparable products which exploits its reputation

- 26 Article 103(2)(a)(ii) of Regulation (EU) No 1308/2013 seeks to prohibit any direct or indirect use of a registered name exploiting the reputation of a designation of origin or geographical indication protected by registration, in a form that is phonetically and visually identical to that name or, at least, highly similar (17/12/2020, C-490/19, Morbier, EU:C:2020:1043, § 24; 09/09/2021, C-783/19, Champanillo / Champagne (PDO), EU:C:2021:713, § 37).

Relevant public

- 27 For the assessment of a potential conflict with a PDO or PGI, reference must be made to the perception of the average consumer, who is reasonably well-informed and reasonably observant and circumspect – that concept being understood as covering European Union consumers and not only consumers of the Member State in which the product giving rise to evocation of the PDO or PGI is manufactured (21/01/2016, C-75/15, VERLADOS / CALVADOS, EU:C:2016:35, § 25, 28; 07/06/2018, C-44/17, SCOTCH WHISKY, EU:C:2018:415, § 47).

Reputation of the PDO ‘CHAMPAGNE’

- 28 The Opposition Division concluded that the PDO ‘CHAMPAGNE’ has acquired an outstanding reputation and prestige in the European Union. The materials submitted by the opponent show a geographically widespread and long-standing use of the PDO (as claimed by the opponent and shown with evidence concerning sales volumes, shipments throughout the EU and the world, distribution of Champagne wines and turnover achieved). It is evident from the submitted materials that the wine growers from the Champagne region and the CIVC dedicate investments and efforts to promoting and protecting the PDO ‘Champagne’. Moreover, the opponent successfully proved that Champagne wines are associated with luxury, success, festivities, and glamour, as reflected in numerous publications and, indeed, previous case-law (contested decision, page 10). The Board endorses these findings and conclusions.
- 29 The Board adds that the evidence submitted by the opponent demonstrates that ‘champagne’ is the most prestigious wine in the world, or at the very least one of the most prestigious, and that it is associated with the image of prestige, high quality and traditional products fulfilling strict requirements and quality standards. It stands as a symbol of celebration, refinement, and culinary excellence.
- 30 The PDO’s reputation has been acknowledged by various decisions of the Boards and the Opposition Division of the Office:
- 17/02/2023, R 531/2022-2, NERO CHAMPAGNE / Champagne (GI): ‘31. In any event, the opponents filed evidence of reputation and have shown that the PDO “Champagne” enjoys an exceptional reputation in the EU and conveys an image of excellence, prestige and celebration’;
 - 17/04/2020, R 1132/2019-4, Champagnola / Champagne: ‘42. Indeed, “Champagne” is one of the most reputed geographical indications for wine (including sparkling wine) in Europe at all’;
 - 17/12/2024, B 3 207 890: ‘The opponent has demonstrated that the reputation of the PDO Champagne goes beyond the inherent reputation given to GIs as the PDO Champagne has gained an outstanding prestige in the European Union ... In light of the above and the extraordinary reputation of the PDO in question ...’.
- 31 Furthermore, the Court of Justice has acknowledged that the PDO ‘Champagne’ ‘conveys an image of luxury and prestige’ (20/12/2017, C-393/16, Champagner Sorbet / Champagne, EU:C:2017:991, § 41).

Identity or high degree of similarity between the signs

- 32 Accordingly, for a situation to fall within the scope of Article 2(a) of Regulation (EU) No 1308/2013, the sign at issue must use a PDO or PGI that is identical to, or at least highly similar to, the protected name in phonetic and/or visual terms (07/06/2018, C-44/17, SCOTCH WHISKY, EU:C:2018:415, § 31; 29/04/2021, C-783/19, Champanillo / Champagne, EU:C:2021:350, § 38; 06/10/2021, T-417/20, Portwo gin / Porto, EU:T:2021:663, § 35)

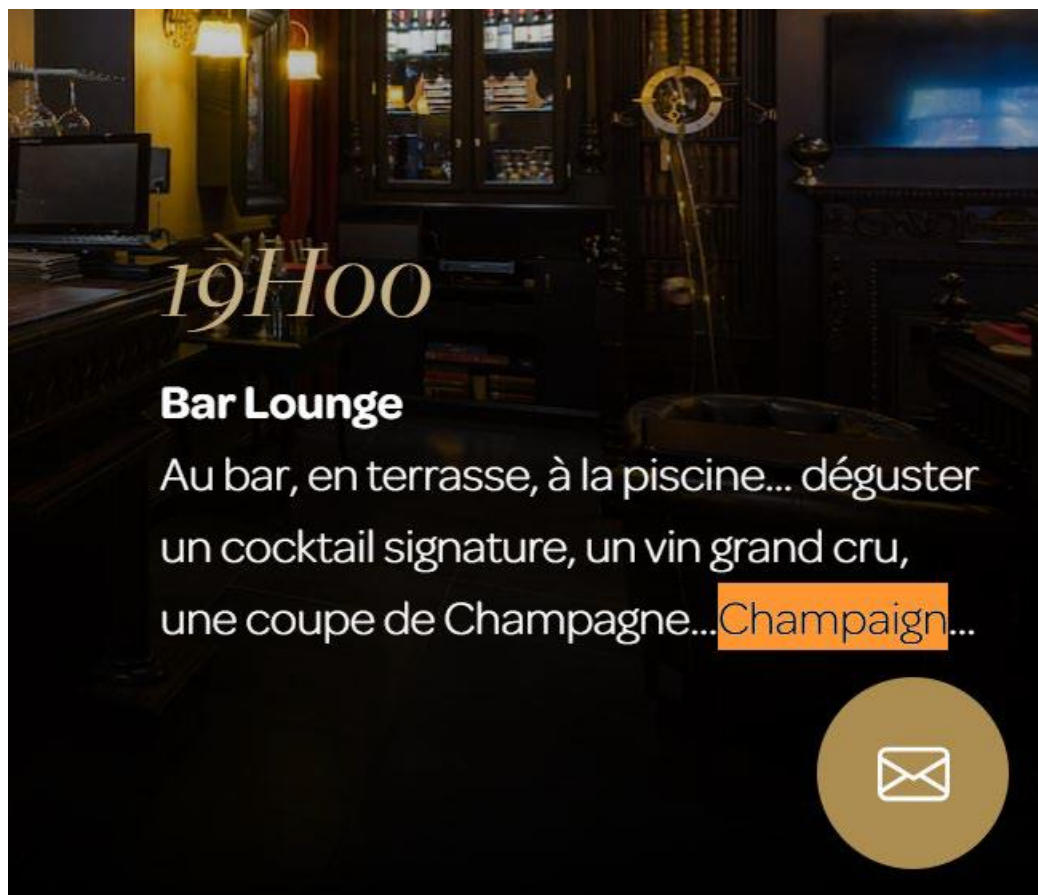
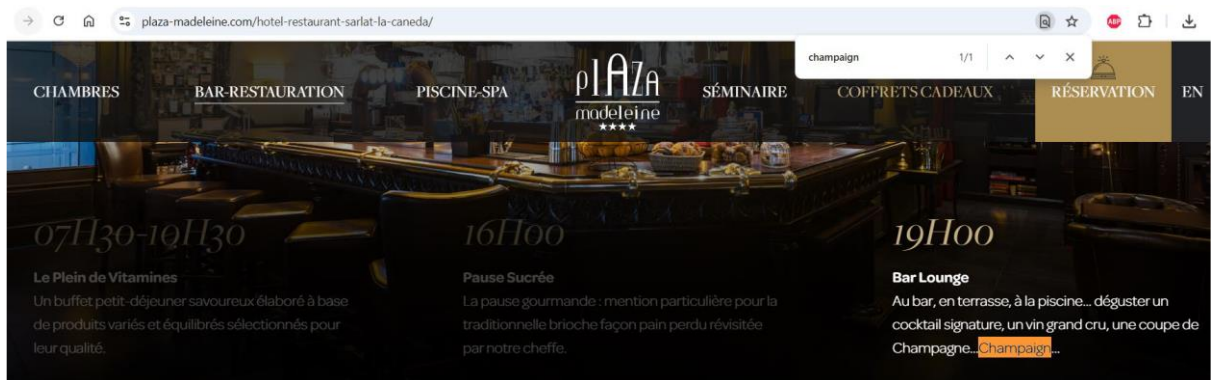
33 The signs to be compared are:

CHAMPAGNE	Chanⁱpaigⁿ
<i>Earlier PDO</i>	<i>Contested sign</i>

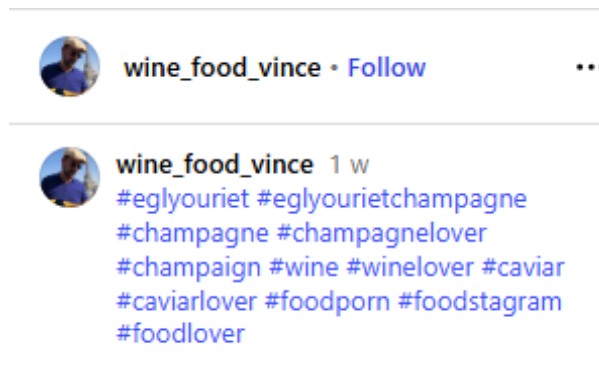
- 34 A non-negligible part of the relevant public will perceive the fourth letter of the contested sign as the letter ‘m’, notwithstanding its stylisation. The presence of a spatula, a well-known cooking utensil, is unlikely to prevent the relevant consumer from recognising the letter ‘m’.
- 35 For this part of the relevant public, the signs ‘CHAMPAGNE’ and ‘CHAMPAIGN’ are visually highly similar. They share the same first seven letters, ‘CHAMPA’, and differ only in their endings, namely ‘-GNE’ versus ‘-IGN’. Both words consist of nine letters and have an almost identical structure, length and sequence of letters. The difference is limited to a minor transposition of the final letters, which is unlikely to be readily perceived by the average consumer, particularly given that consumers generally pay greater attention to the beginning of a sign than to its ending. Overall, the visual differences are insufficient to outweigh the considerable similarities between the signs.
- 36 Phonetically, the signs are identical or, at the very least, almost identical. In English, ‘CHAMPAIGN’ is commonly pronounced in the same way as ‘CHAMPAGNE’ (‘sham-payn’). Even in Member States where English is not the first language, consumers are likely to pronounce both words in a highly similar manner because the final elements ‘-GNE’ and ‘-IGN’ produce the same or a very similar sound. Consequently, the differences in spelling have little or no impact on the overall pronunciation of the signs.
- 37 Conceptually, the signs are identical. ‘CHAMPAGNE’ is universally recognised as referring to the famous sparkling wine originating from the Champagne region of France and protected as a Protected Designation of Origin (PDO). As submitted and proved by the opponent (see, in particular, Exhibits VI.1.a) and VI.1.b)) the word ‘CHAMPAIGN’ is widely used in English-language sources as an alternative spelling or translation referring to Champagne. It appears in historical publications, advertisements, restaurant wine lists, retail descriptions, social media, and other materials relating to Champagne. Consequently,

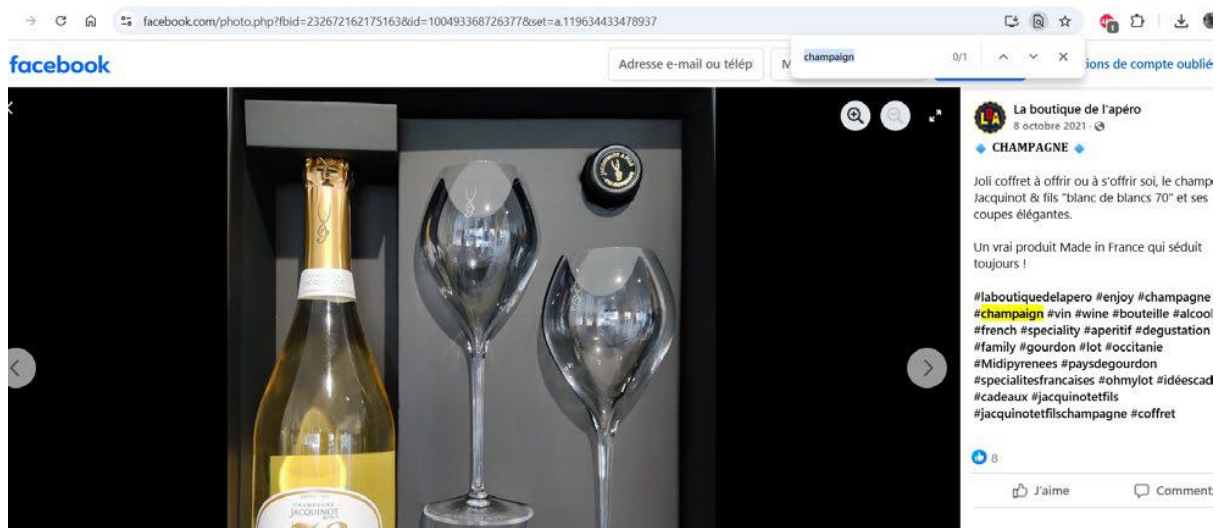
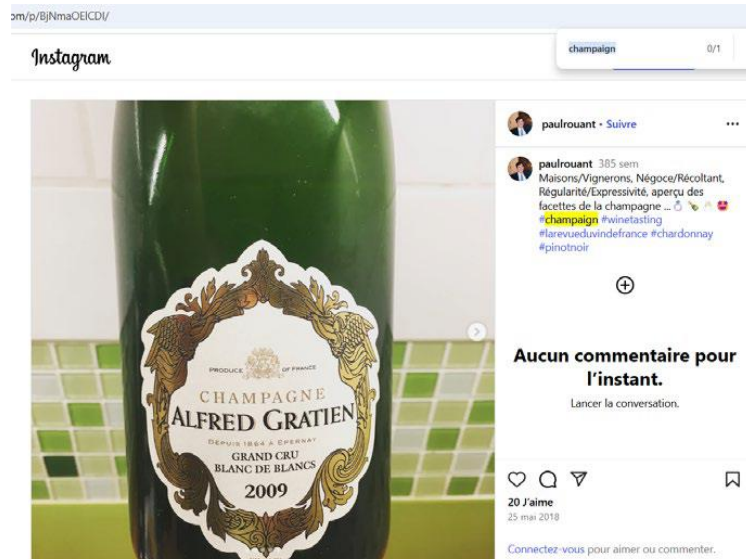
English-speaking consumers will immediately understand ‘CHAMPAIGN’ as referring to CHAMPAGNE.

- Exhibit VI.1.a provides numerous other examples of the use of ‘CHAMPAIGN’ as a synonym, phonetic spelling or misspelling of the PDO ‘Champagne’:
 - a hotel bar lounge in Sarlat-la-Canéda (France):

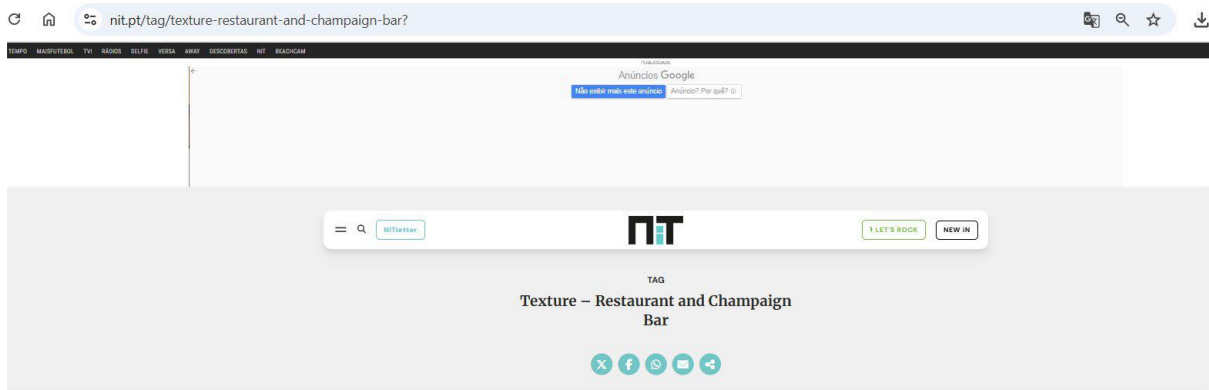


- the use of 'CHAMPAIGN' as a hashtag on social media:

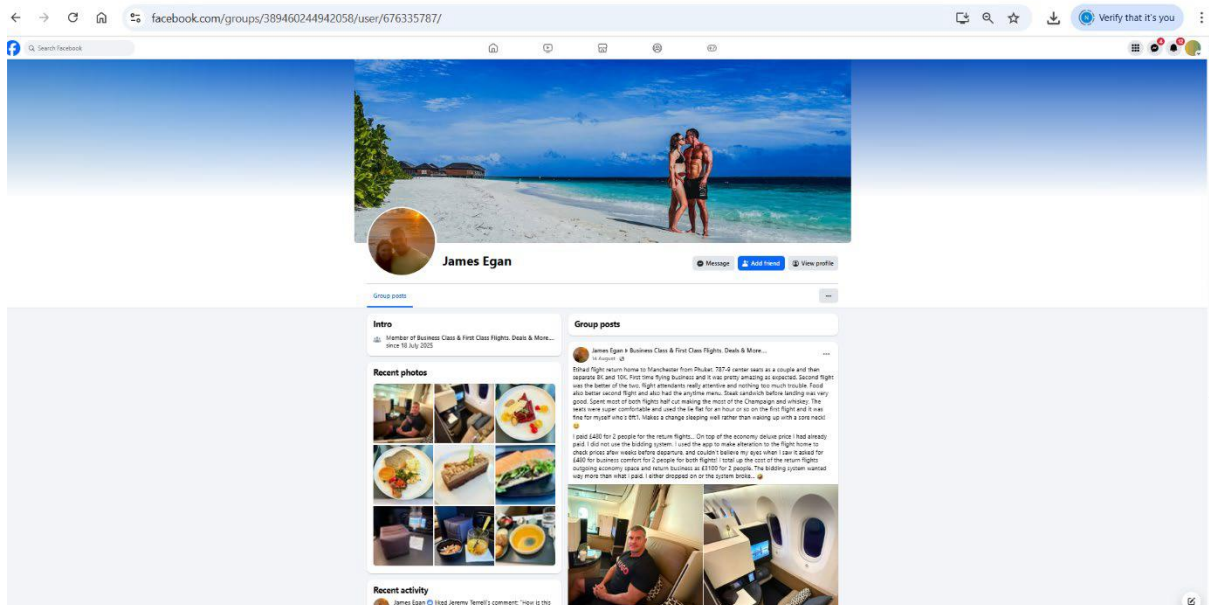




- use as a tag on a Lisbon digital lifestyle magazine:



- comments or designations on social media:

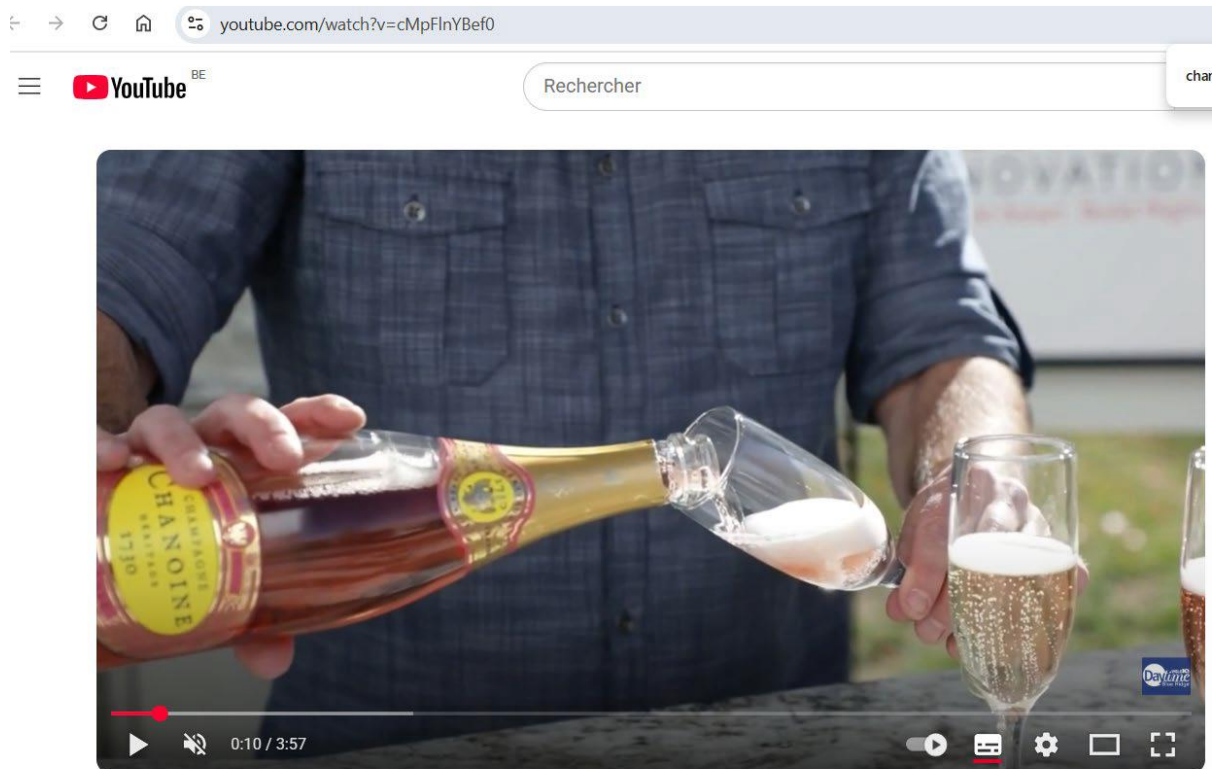


Business Class & First Class Flights. Deals & More....

James Egan · 14 August · 🌐

Etihad flight return home to Manchester from Phuket. 787-9 center seats as a couple and then separate 8K and 10K. First time flying business and it was pretty amazing as expected. Second flight was the better of the two, flight attendants really attentive and nothing too much trouble. Food also better second flight and also had the anytime menu. Steak sandwich before landing was very good. Spent most of both flights half cut making the most of the **Champaign** and whiskey. The seats were super comfortable and used the lie flat for an hour or so on the first flight and it was fine for myself who's 6ft1. Makes a change sleeping well rather than waking up with a sore neck!

- Youtube designation of a video on Chanoine Champagne:



A fancy way to pop **Champaign** and suggestions for drink selections on New Year's Eve

- 38 Moreover, even consumers with little or no knowledge of English are likely to perceive 'CHAMPAIGN' as a variant spelling or misspelling of 'CHAMPAGNE', particularly because many EU languages use identical or closely related words to designate Champagne (e.g. *Champagner*, *champán*, *champanhe*, *samppanja*, *szampan*, *šampanie*, and *šampaňské*). As a result, both signs convey the same concept to the relevant public.
- 39 Overall, the signs are highly similar.
- 40 This conclusion is in line with the judgment of the General Court of 6 October 2021 in 'Portwo gin v Porto' (T-417/20, EU:T:2021:663), in which the General Court held that the sign 'PORTWO GIN' constituted use of the PDO 'PORTO' within the framework of Article 103(2)(a) of Regulation (EU) No 1308/2013:

39. The applicant claims that there is no similarity between the signs at issue. According to the applicant, the mark applied for does not use the PDO 'Porto' in that the initial element 'PORTWO' of that mark is a fanciful term which does not even reproduce the whole of that PDO. Furthermore, he considers that the additional word 'GIN' of that mark is the most significant and distinctive element, which immediately draws the attention of the relevant public and which clearly identifies a product that is manifestly different from wine. In addition, that initial element and that additional word would be understood by that public as being one single, logical and conceptual unit.

40. In the present case, as regards the visual aspect, it should be pointed out that the Board of Appeal was correct to note, in paragraphs 43 and 44 of the

contested decision, that the first four letters of the mark applied for were identical to the first four letters of the PDO ‘Porto’. Furthermore, it correctly indicated that the initial part of a sign was generally what caught the attention of the consumer. Moreover, it would not rule out that a significant part of the relevant public might perceive the presence of the letter ‘w’ as a spelling mistake.

41. As to the phonetic aspect, the Board of Appeal was right to consider that, at least in French, the sound of the initial element of the mark applied for was identical to the sound of the PDO ‘Porto’.

42. As regards the additional word ‘GIN’, contrary to the applicant’s submission, the Board of Appeal was right to consider that it was descriptive of the goods covered by the mark applied for. As EUIPO also submits, since that mark covers spirits in Class 33, that additional word is devoid of distinctive character and plays a very limited role in the analysis of that mark. By contrast, the most distinctive element is the initial element ‘PORTWO’ of the same mark.

44. It follows that the conditions for allowing a finding of ‘use’ of the PDO ‘Porto’ in the mark applied for are satisfied in that, in accordance with the case-law, there is such a close connection between the signs, from a phonetic and visual perspective, that the sign whose registration is contested is clearly indissociable from the earlier PDO.

- 41 The Board concludes that the use of the contested mark constitutes direct use of the PDO ‘Champagne’ within the framework of Article 103(2)(a)(ii) of Regulation (EU) No 1308/2013, as amended.

Exploitation of the reputation

- 42 The Court emphasised that ‘Article 103(2) of Regulation No 1308/2013 provides for a broad scope of protection which is intended to extend to all uses involving unfair advantage being taken of the reputation enjoyed by the products covered by those indications’ (09/09/2021, C-783/19, Champanillo / Champagne, EU:C:2021:713, § 50).
- 43 The extensive protection afforded by point (a), against use for comparable and non-comparable products which would exploit the repute of the product name, is consistent with the objective of protecting PDOs against any use intended to take undue advantage of the reputation enjoyed by products which comply with the specifications, in particular by means of a transfer of image (20/12/2017, C-393/16, CHAMPAGNER SORBET, EU:C:2017:991, § 40-41).
- 44 The Court also emphasised that the notion of ‘exploitation of reputation’ ‘entails use of the PDO that seeks to take undue advantage of the reputation enjoyed by the PDO’ (20/12/2017, C-393/16, CHAMPAGNER SORBET, EU:C:2017:991, § 40).
- 45 The reputation of a PDO is likely to be exploited when it is used for goods other than those protected by the PDO, and when the particular image and distinctive qualities of a PDO are transferable to the goods covered by the mark applied for (25/06/2025, T-239/23, NERO CHAMPAGNE / Champagne (GI), EU:T:2025:638, § 41).

- 46 In the context of EU trade mark law, the Court underlined that the stronger the earlier mark's distinctive character and reputation, the greater the likelihood that current or future use of the sign is taking, or will take, unfair advantage of the distinctive character or the repute of the mark or is, or will be, detrimental to it (27/11/2008, C-252/07, Intel, EU:C:2008:655, § 67-69; 18/06/2009, C-487/07, L'Oréal, EU:C:2009:378, § 41, 43).
- 47 Case-law also states that the more similar the marks in dispute are, the more likely it is that the later mark will bring the earlier mark with a reputation to the mind of the relevant public (06/07/2012, T-60/10, ROYAL SHAKESPEARE / RSC- ROYAL SHAKESPEARE COMPANY et al., EU:T:2012:348, § 26).
- 48 The case-law recognises, in the context of EU trade mark law, that '[it] is possible, particularly in the case of an opposition based on a mark with an exceptionally high reputation, that the probability of a future, non-hypothetical risk of detriment to the earlier mark or of unfair advantage being taken of it by the mark applied for is so obvious that the opposing party does not need to put forward and prove any other fact to that end' (17/03/2010, T-63/07, tosca de FEDEOLIVA (fig.) / TOSCA, EU:T:2010:94, § 40; (14/12/2012, T-357/11, GRUPO BIMBO (fig.) / BIMBO et al., EU:C:2023:67, § 43).
- 49 The evidence on file reveals that, throughout the European Union, the PDO 'Champagne' is universally recognised as one of the most prestigious PDOs and enjoys an exceptional reputation and prestige among consumers.
- 50 It immediately evokes notions of luxury, success, elegance, celebration, exclusivity, refinement and superior quality.
- 51 The exceptional reputation of the PDO 'Champagne' is the result of centuries of sustained investment by Champagne producers in maintaining the quality, distinctiveness and prestige of their wines.
- 52 The Court of Justice acknowledged that the PDO 'Champagne' 'conveys an image of luxury and prestige' (20/12/2017, C-393/16, Champagner Sorbet / Champagne, EU:C:2017:991, § 41).
- 53 As a result, by adopting a sign that is highly similar to the PDO 'Champagne' for goods in Class 11, the applicant immediately endows those goods with an aura of luxury, exclusivity, refinement and superior quality.
- 54 The goods covered by the contested mark in Class 11 will undoubtedly benefit from a transfer of the highly positive image, prestige and reputation associated with the PDO 'Champagne'.
- 55 It is also noteworthy that there is a certain degree of proximity between Champagne wine in Class 33 and the contested goods in Class 11. As outlined by the opponent, 'Champagne wine, Champagne sommellerie (wine waiting) and Champagne-related food pairing are closely intertwined with the culinary arts on which the concerned products in Class 11 also have a bearing. The public confronted with the PDO and the concerned products overlap'.
- 56 Indeed, consumers encountering the contested sign are likely to perceive the applicant's products as premium or high-end goods complying with the highest standards of

excellence, precisely because they associate the sign with the exceptional reputation of Champagne wines.

- 57 The use of the contested EUTM in relation to the applicant's goods in Class 11 is liable to influence consumers' purchasing decisions by creating the impression that those goods possess a premium character and meet exceptional quality standards.
- 58 This facilitates recognition, market penetration, investor confidence, consumer trust and, ultimately, the commercial success of the goods covered by the contested mark.
- 59 All the goods covered by the contested mark in Class 11 are likely to benefit from an image transfer whereby the prestige and exceptional reputation of the PDO 'CHAMPAGNE' are transposed to those goods.
- 60 As a result, the use of a sign that is highly similar to the PDO 'Champagne' serves as a 'springboard' for the marketing of the Class 11 goods covered by the contested mark.
- 61 The transfer of the image of high quality, refinement, uniqueness, prestige, excellence and luxury (i.e. the transfer of esteem from one sector to another) is not restricted to a certain group of goods or a certain sector.
- 62 The association of the contested goods with Champagne wines generates immediate visibility and enhances the attractiveness of the goods covered by the contested mark.
- 63 To summarise, this transfer of image confers an immediate commercial advantage on the applicant. Without making any investment of its own in establishing a comparable reputation, the applicant benefits from the goodwill accumulated by the beneficiaries of the PDO over centuries. The association with Champagne facilitates consumer recognition of the sign, enhances its distinctiveness, promotes market penetration, strengthens consumer confidence and increases the attractiveness of the applicant's products. The contested sign therefore functions as a commercial springboard, allowing the applicant to launch and market its goods under the shadow of one of the most prestigious geographical indications in the European Union. This is precisely what is meant by the exploitation of the reputation of a Protected Geographical Indication.

Conclusion

- 64 In light of the above considerations, the Opposition Division erred in rejecting the opposition on the grounds of Article 8(6) EUTMR.
- 65 Therefore, the contested decision must be annulled, and the appeal is upheld.

Costs

- 66 Pursuant to Article 109(1) EUTMR and Article 18 EUTMIR, the applicant, as the losing party, must bear the opponent's costs of the opposition and appeal proceedings.
- 67 As to the appeal proceedings, these consist of the appeal fee of EUR 720 and the opponent's costs of professional representation of EUR 550.

- 68 As to the opposition proceedings, the applicant must reimburse the opposition fee of EUR 320 and the opponent's costs of professional representation of EUR 300.
- 69 The total amount is therefore fixed at EUR 1 890.

Order

On those grounds,

THE BOARD

hereby:

- 1. Annuls the contested decision.**
- 2. Upholds the opposition and rejects the contested EUTM application for all the contested goods.**
- 3. Orders the applicant to bear the opponent's costs incurred in the appeal and opposition proceedings, in the amount of EUR 1 890.**

Signed

C. Negro

Signed

S. Martin

Signed

H. Salmi

Registrar:

Signed

K. Zajfert

