

Monumental decision of the Second Board of Appeal of EUIPO

Decision of the Second Board of Appeal of 24 August 2026 concerning the application for the EUTM “CHAMPAIGN” in Class 11 (Case R 1446/2025-2).

Background

On 4 July 2022 Monument Grill LLC filed an application for the figurative EU trade mark “EUTM” depicted below:



The EUTM was filed in class 11 for the following products: 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 -).

Comité Champagne (Comité Interprofessionnel du Vin de Champagne – CIVC) is a semi-public interprofessional body representing the common/collective interests of Champagne growers and Champagne houses. One of its paramount missions is to promote, protect and defend the Protected Designation of Origin (“PDO”) ‘Champagne’ in France and throughout the world. Comité Champagne opposed the EUTM application on the basis the earlier wine-PDO.

On 18 October 2023 the Opposition Division considered that the EUTM neither consists solely of the PDO ‘Champagne’ nor contains or reproduces the whole PDO because of the representation of the last stroke of the letter ‘m’ in the shape of a cooking utensil. According to the Opposition Division this constitutes a relevant and significant difference, the clear reference to the act of cooking allowing the relevant consumer to dissociate the contested sign from the earlier PDO. In addition thereto the Opposition Division considered that in any case there could be no exploitation of reputation because utensils, apparatus and installations for lighting, heating, cooking, and/or refrigerating were too remote from wine. Along the same lines the Opposition Division also rejected any evocation of the PDO ‘Champagne’.

Through its decision of 18 September 2024 the Board of Appeal annulled the decision and remitted the case to the Opposition Division considering that the latter did not apply the correct legal provision. Article 103(2)(a) of Regulation 1308/2013 had indeed been amended by Regulation 2021/2117 that introduced protection against the use of a protected name in so far as such use weakens or dilutes reputation (now enshrined as amended in Article 26(1)(a) of Regulation 2024/1143).

In a decision of 12 June 2025 the Opposition Division did not depart from its initial assessment considering that infringing acts under Article 103(2)(a)(ii) and 103(2)(b) of Regulation 1308/2013 were not sufficiently established. It transposed the initial reasoning in its earlier decision by analogy to the weakening and dilution of reputation invoked by Comité Champagne.

The Decision of the Board of Appeal

On 24 August 2026 the Board of Appeal upheld Comité Champagne's appeal and annulled the decision of the Opposition Division.

Relevant public and reputation

The Board of Appeal recalled that for the assessment of a potential conflict reference must be made to the perception of the average European Union consumer. It acknowledged that Comité Champagne successfully established:

- That Champagne wines are associated with luxury, success, festivities, and glamour (§28);
- 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"* standing as a symbol of celebration, refinement, and culinary excellence (§29).

Direct use

The Board of Appeal goes on to acknowledge that the EUTM applied for is highly similar to the protected name (§39) and amounts to "direct use" of the PDO (§41) by reference to the 2021 PORTWOGIN judgement of the General Court (§40). In reaching that conclusions the Board of Appeal considered that the presence of a spatula, a well-known cooking utensil, is unlikely to prevent the relevant consumer from recognising the letter 'm' (§34).



In finding a very high degree of similarity and direct use of the PDO 'Champagne' within the framework of Article 103(2)(a) of Regulation 1308/2013, as amended the Board of Appeal held that

- The visual differences are insufficient to outweigh the considerable similarities between the signs as they share the same first seven letters, 'CHAMPA', and differ only in their endings, namely '-GNE' versus '-IGN' (§35);
- The differences in spelling have little or no impact on the overall pronunciation of the signs (§36);
- Conceptually the word 'CHAMPAIGN' is widely used in English-language sources as an alternative spelling or translation referring to Champagne (§37) and even consumers with little or no knowledge of English are likely to perceive 'CHAMPAIGN' as a variant spelling or misspelling of 'CHAMPAGNE' (§38);

Exploitation of reputation

The Board of Appeal recalled that according to the case law Article 103(2) of Regulation 1308/2013 provides for a broad scope of protection which is intended to extend to all uses involving unfair advantage and that 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 (§§42-46).

It underlined by analogy with trade mark law:

- that the stronger the reputation of the earlier PDO the greater the likelihood that current or future use of the highly similar sign is taking, or will take, unfair advantage of that reputation (§46) as the Opposition Division had already acknowledged in its Champagnecharly decision back in 2016 (B 2 464 199, p.9).
- that in case of an exceptionally high reputation, the probability of a future, non-hypothetical risk of detriment to the earlier PDO 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 (§48);

According to the Board of Appeal the exceptional reputation and prestige enjoyed by the 'Champagne' PDO

- "immediately" evokes notions of luxury, success, elegance, celebration, exclusivity, refinement and superior quality (§50);
- is the result of "*centuries of sustained investment by Champagne producers*" in maintaining the quality, distinctiveness and prestige of their wines (§51);

It furthermore holds that

- "*as a result*" of the image conveyed by the PDO 'Champagne' by adopting the contested sign as a trade mark for the concerned goods in Class 11, Monument Grill LLC "immediately" endows those goods with an aura of luxury, exclusivity, refinement and superior quality (§53) and
- the goods will undoubtedly benefit from a transfer of the highly positive image, prestige and reputation (§54)

Those considerations are thus self-standing and therefore unrelated to the question of proximity between the goods. The Board of Appeal observes only in passing that:

- There is a certain degree of proximity between Champagne wine and the goods in class 11 in view of the connection with culinary arts by reference to Champagne sommellerie (wine waiting) and Champagne related food pairing (§55);
- The public confronted with the PDO and the concerned products overlap (§55);

The Board of Appeal further reiterates that it did however not attach any decisive weight to said considerations in reaching its decision: "*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.*" (§61).

Comment

The decision discussed above is to be welcomed as it appears to confirm that EUIPO approaches Geographical Indications as full-fledged intellectual property rights. oriGIn welcomes the decision in particular, as it was one of the organisations that provided a testimonial declaration in support of the Comité Champagne in the context of these opposition proceedings.

In addition to the considerations highlighted above two further points are particularly worth noting in the remarkable decision (as summarized by the Board of Appeal in §63).

- “Commercial Springboard”

Interestingly in reaching its decision the Board of Appeal stresses that the contested sign functions as a “*commercial springboard*” for the marketing of the concerned goods, providing an “*immediate*” visibility and an immediate commercial advantage (see also §60). The concept is elaborated upon as follows:

“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.”

- Functional blurring

It is eventually noteworthy that following on from the aforementioned paragraph the Board of Appeal also acknowledges that the similarity between the PDO ‘Champagne’ and the EUTM applied for “*enhances [the latter’s] distinctiveness*”.

This can only be understood as referring to the distinctive character of the EUTM as an “individual trade mark”. In doing so the Board of Appeal implicitly but unequivocally recognizes that the EUTM applied for would draw the geographical indication into an individual trade mark function and in doing so, blur the functional distinction between the GI and the trade mark, to the benefit of the latter.

The Board of Appeal seems to acknowledge such blurring of the GI function into a trade mark function, and appears to have taken it into account in its assessment of the exploitation reputation.