

Blow for Red Bull as EUIPO rejects opposition against RIDER for beverages

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- Red Bull opposed the registration of the figurative mark RIDER based on its well-known 'double bull' logo and RED BULL mark
- The Opposition Division found that the distinctive elements of Red Bull's marks were not sufficiently similar to the contested sign to create a likelihood of confusion
- There was nothing in the signs that would lead consumers to establish a link between them

On 6 March 2025 the EUIPO's Opposition Division issued its decision in [Opposition No B 3 208 066](#). Red Bull GmbH had opposed the registration of a figurative trademark for beverages by Ferbalmo SLU.

Background

Red Bull, a well-known Austrian company, opposed Ferbalmo's application for a figurative trademark covering "beer, non-alcoholic beverages, mineral water, fruit-based beverages, juices, syrups, energy drinks and isotonic beverages".

The opposition was based on Red Bull's earlier trademarks, including EU and Austrian registrations featuring its iconic 'double bull' logo and the Red Bull name. Red Bull invoked Articles 8(1)(b) and 8(5) of [Regulation 2017/1001](#), citing a likelihood of confusion and reputation-based claims.

Decision

The Opposition Division's assessment of the visual, phonetic and conceptual similarity between the signs was central to its decision to reject Red Bull's opposition. While both Red Bull's marks and the contested sign featured red-coloured animal(s) against a yellow circular background, the Opposition Division found that significant differences outweighed these similarities.

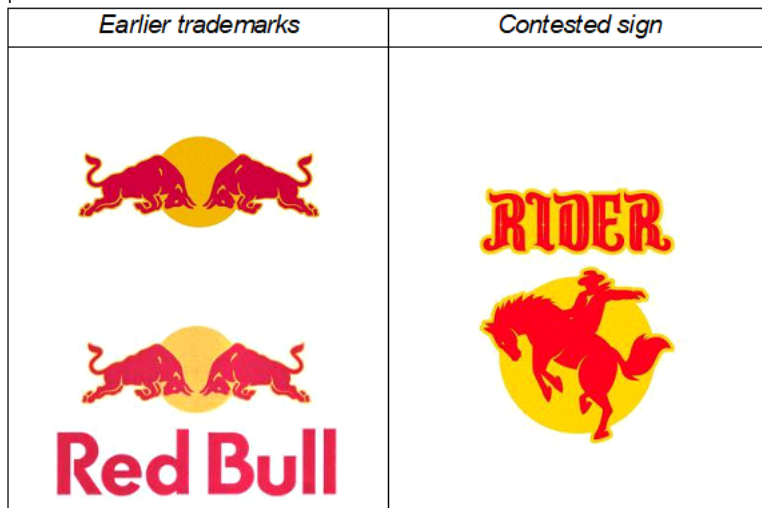
The key points of the EUIPO's examination were as follows.

Similarity of the goods

The goods covered by the contested mark were found to be identical or highly similar to those covered by Red Bull's trademarks ("non-alcoholic beverages, energy drinks, isotonic drinks").

Visual comparison

Red Bull's marks prominently featured two red bulls charging each other against a yellow circular backdrop, while the contested sign featured a red cowboy on a horse, also against a yellow circle. Both backgrounds could easily be interpreted as a representation of the sun.



According to Opposition Division, the use of the colours red and yellow in both marks did not create a meaningful similarity, as they are primary colours commonly used in branding because they provide contrast when used together. Further, the shapes and depictions of the animals were fundamentally different: the bulls were sturdy with thin tails, while the horse had a full mane and a well-feathered tail. Their postures were also distinct, as the bulls were depicted in a forward-charging stance, whereas the horse was shown rearing.

The Opposition Division determined that the marks shared only minimal similarities in colour and geometric background elements, and that there was no overall impression of visual similarity. The two bulls in the earlier trademarks face each other, emphasising movement in aggression, while the single horse in the contested sign interacts with a human figure, suggesting control and dynamic motion of a different kind. Additionally, the verbal elements 'red bull' and 'rider' shared some letters but differed in font, position and additional letters, contributing to a very low degree of visual similarity.

Phonetic comparison

As an aural comparison between purely figurative signs is not possible, the Opposition Division compared only the second earlier trademark with the contested sign. It found that, although the verbal element 'red bull' shared some sounds with the verbal element 'rider' of the contested sign, the overall pronunciation differed significantly, due to the order and position of the letters. Thus, the contested sign was only slightly similar to the second earlier trademark from a phonetic point of view.

Conceptual comparison

Red Bull contended that both signs conveyed the idea of powerful, aggressive animals, reinforcing the distinctiveness of its marks. However, the Opposition Division dismissed this argument, citing the General Court judgment in [Case T-215/17](#) (Paragraphs 77 to 79), in which it was held that, even when two marks belong to the same general category (eg, fruit), this does not necessarily result in conceptual similarity.

Applying this reasoning, the Opposition Division determined that, while bulls and horses are four-legged mammals, they are entirely different species with distinct characteristics. Moreover, the presence of the yellow sun did not contribute significantly to the conceptual similarity, as it was deemed to be a background element with minimal impact. The word 'rider' in the contested sign further differentiated the marks by explicitly referencing horseback riding, a concept absent from Red Bull's branding. Thus, there was no meaningful conceptual link between the marks.

Distinctiveness of Red Bull's marks

Red Bull claimed that the earlier trademarks had a high degree of distinctive character, both inherent and acquired through use.

With regard to inherent distinctiveness, the earlier trademarks were found distinctive merely to a normal degree. However, the Opposition Division acknowledged that the earlier trademarks had acquired a high degree of distinctiveness through their use on the market, at least in Germany and Austria, prior to the contested trademark's application date, due to their reputation. Red Bull had submitted abundant evidentiary material demonstrating that the earlier trademarks had been subjected to long-standing and

intensive use in at least some of the EU member states, and were among the leading brands in the energy drinks sector. Moreover, market studies or studies' overview submitted by Red Bull illustrated that the 'double bull device', taken alone or together with the verbal element 'Red Bull', was spontaneously associated with the opponent by the relevant consumers.

The Opposition Division pointed out that such reputation and enhanced distinctiveness was established in relation to the earlier trademarks, each taken as a whole, and not in relation to their individual elements (eg, the yellow circle (or sun) or the combination of colours used for depicting any verbal or figurative element).

Despite the earlier trademarks' high degree of distinctive character and the identity or high similarity of goods, the Opposition Division found that the distinctive elements of Red Bull's marks were not sufficiently similar to the contested sign to create a likelihood of confusion.

Reputation

The grounds for refusal under Article 8(5) are applicable only when:

- the signs are either identical or similar;
- the opponent's trademark has a reputation existing prior to the filing of the contested trademark, in the territory concerned and for the goods and/or services on which the opposition is based; and
- there is a risk of injury, meaning that use of the contested trademark would take unfair advantage of, or be detrimental to, the distinctive character or repute of the earlier trademark.

As the first two conditions had already been examined under Article 8(1)(b), the Opposition Division moved on to examine whether the relevant public would establish a 'link' (or association) between the signs (as introduced in [Adidas-Salomon AG](#) (Case C-408/01) or [Intel](#) (Case C-252/07)). The answer was in the negative, with the Opposition Division opining as follows:

“ There is thus nothing in the signs, not even the fact that they coincide in elements that ultimately have little impact or are of a decorative nature, that would lead consumers to establish a link between them even if goods at issue are identical and similar and even if the earlier marks are highly reputed at least in Germany and in Austria. ”

It then went even further, stating:

“ Any conclusion to the contrary would entail that consumers would establish a link between the earlier marks displaying two fighting bulls and any other sign with the same colour scheme and a sun showcasing a single mammal who, in the opponent's view, happens to look aggressive without actually engaging in a combat with any alike, such as a single angry cat, dog or elephant. ”

Conclusion

The opposition was therefore rejected on both grounds. The decision is subject to appeal.

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