

Newsletter

IP / Media

November – December 2024

Beyond Meat's green cow logo found misleading by EUIPO

The EUIPO considered that the image of the cow used by Beyond Meat for its logo, even if stylized, could mislead the consumer when used for meat substitutes, validating the uses for other products.

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NEWS INTELLECTUAL PROPERTY

The new "Designs Package comes into force"

[Regulation \(EU\) 2024/2822 of the European Parliament and of the Council of 23 October 2024 amending Council Regulation \(EC\) No 6/2002 on Community designs and repealing Commission Regulation \(EC\) No 2246/2002](#)

[Directive \(EU\) 2024/2823 of the European Parliament and of the Council of October 23, 2024 on the legal protection of designs \(recast\)](#)



Regulation 2024/822 on Community designs was published in the OJEU on November 18, 2024. Most of its provisions will apply from May 1, 2025, although some articles will only apply from June 1, 2026. The current regulation will be repealed on May 1, 2025. The new Design Directive (EU) 2024/823 is also published and must be implemented by December 9, 2027. Directive 98/71 will be repealed on the same date.

- These texts are the result of years of discussions on reforming the EU's design regime. The reforms aim to update current legislation to improve design protection in the age of digital designs and 3D printing.
- The term European Union Design (EUD) will replace Registered Community Design (RCD). EUCD holders will be able to use a new symbol, a D in a circle, to mark their products.
- A major change is the introduction of the so-called repair clause, which (after a transitional period) exempts from design protection spare parts used to repair complex products. This is particularly important for industries (such as automotive) where spare parts are commonly sold.
- Another change is the expansion of the definition of "design" to include "the appearance of a product or part of a product conferred by the features, in particular the lines, contours, colors, shape, texture and/or materials, of the product itself and/or its decoration, including movement, transitions or any other type of animation of these features". The addition of "movement, transitions or ..." is intended to enable the protection of digital designs.
- Similarly, the definition of "product" has been extended to include "graphic works or symbols, logos, surface designs, typefaces and graphical user interfaces", although computer programs remain excluded.
- To enable design owners to enforce their rights against 3D printing-related infringements, the new legislation specifies that it is prohibited to "create, download, copy and share or distribute to others any media or software recording the design".
- Changes have also been made to registration procedures and fees.

NEWS INTELLECTUAL PROPERTY

The OPC Court of Appeal clarifies the possibility of withdrawing a derogation for a patent that is the subject of an action before the national courts

Order of the Court of Appeal of the Unified Patent Court issued on 12 November 2024 (UPC CoA 489/2023)



The OPC Court of Appeal has clarified that the withdrawal of a derogation (opt-out) is only affected by actions brought before a national court on or after June 1, 2023, the date on which the OPS comes into force. National proceedings initiated before this date have no impact on the withdrawal of a derogation. The decision only concerns patents which have been excluded from the jurisdiction of the OPC and which have been the subject of national proceedings initiated before June 1, 2023. Previously, patent holders might have thought that they could not withdraw their opt-out if national proceedings had been initiated before June 1, 2023. Now, they can reconsider and potentially withdraw their optout, placing the patent under the exclusive jurisdiction of the OPS, and re-assert the patent. Patent owners who regularly review their opt-out decisions now have an additional factor to consider. For those who do not, the status of their withdrawn patents remains unchanged. On the other hand, users of patent-protected technology without authorization

On the other hand, users of patent-protected technology without authorization may have thought that they could not be sued before the UPC if national proceedings had been brought before a national court before June 1, 2023. Now, the UPC may become an option for a second attempt. Infringers may therefore find themselves faced with another infringement action when they previously thought that national proceedings were the only options. But if an opt-out request is withdrawn, they will be able to bring a single revocation action, which was not possible before.



NEWS INTELLECTUAL PROPERTY



Beyond Meat's green cow logo confirmed by EUIPO as misleading for meat substitutes

[EUIPO, 17 December 2024, R 1368/2024-4](#)

Beyond Meat, an American company specializing in plant-based alternatives to meat, has registered a figurative European Union trademark depicting a cow on a green background for various vegetarian and vegan food products. 

Interbev, the French-based Association Nationale Interprofessionnelle du Bétail et des Viandes, applied for partial cancellation of this trademark. Interbev argued that the use of this mark was misleading, as it could lead consumers to believe that the products were of animal origin, contrary to articles 59(1)(a) and 7(1)(g) of the European Union Trade Mark Regulation (EUMR).

The EUIPO Board of Appeal ruled that the depiction of a stylized cow could indeed mislead consumers as to the nature of the goods in classes 29 and 30 (in particular meat substitutes and non-dairy yoghurts), by attributing to them animal qualities which they did not possess. Consequently, the partial cancellation was confirmed for these products. However, the Board considered that certain other products, such as cereal bars and soya milk, could use the trademark without risk of confusion, since these products are now clearly identified as vegetable alternatives.



Clarification of abuse of the right to bring an action for forfeiture

[EUIPO, December 5, 2024 Samsung / Swatch group](#)

In response to litigation initiated by Swatch Group in the UK, Samsung filed 39 applications for revocation of Swatch Group trademarks for non-use. Swatch raised the inadmissibility of the claims as abusive on the basis of the Sandra Pabst decision of the EUIPO's Enlarged Board of Appeal.(R 904/2021-1). The EUIPO Cancellation Division considers that Samsung's numerous revocation requests are not abusive for the following reasons:

- Because of the ongoing litigation, the strategy can be considered as a means of defense.
- Samsung has not systematically requested revocation for all the goods and services covered by Swatch's trademarks.
- Samsung had previously asked Swatch to partially relinquish its trademarks.

Under the terms of the decision, some of the Swatch group's well-known trademarks are revoked for non-exploited products and services, but retained for analog watches.

NEWS MEDIA, ENTERTAINMENT AND ADVERTISING



French court has ordered Google to suspend its "experiment" of removing press publications from its search engine results in France for certain Internet users.

[Presse release from SEPM](#)



Google has announced the suspension of its test project which would have removed press content for 1% of French users. This decision follows swift legal action brought by Le SEPM - Syndicat des Editeurs de la Presse Magazine.

The SEPM objected to this test, arguing that it violated the commitments Google had made to the French Competition Authority, promising not to modify the indexing, classification or presentation of press content during the ongoing negotiations on neighboring rights.

This action is part of the broader framework of the negotiation between SEPM and Google concerning related rights for press publishers, as established by the European Copyright Directive and its transposition into French law. While only 1% of users were affected, the impact on French publishers would have been significant, since up to 90% of traffic comes from Google searches. Google has been fined multiple times, totalling €750 million, for failing to meet these commitments in the past. The Paris Commercial Court granted SEPM's request, ordering an immediate suspension with a penalty of up to €900,000 per day.

NEWS MEDIA, ENTERTAINMENT AND ADVERTISING

No copyright protection for Amélie Poulain in Zorro costume

[TJ Paris, 3rd Ch. 1st Section, Dec. 19, 2024, no. 22/13834](#)



A striking scene in the film *Le fabuleux destin d'Amélie Poulain* shows Amélie creating a photograph of herself dressed as Zorro, complete with mask and hat, and another character recreating this image in the film.

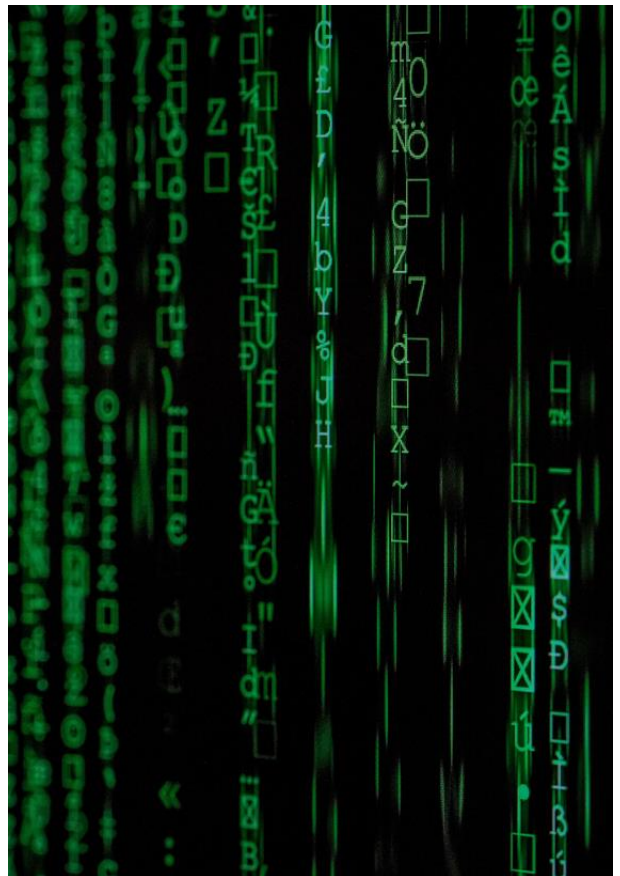
Photobooth operator ME Group France ran an advertising campaign entitled "Tu veux ma photo?" ("Do you want my photo?") on its website, social networks and photobooths. The campaign featured a Zorro-like masked woman in a photo booth, nicknamed "Amélie 2.0".

The film's creators, including the authors, screenwriters and directors, sued the company for infringement and parasitism, accusing it of using the Amélie Poulain character without authorization.

The Court refused to recognize copyright protection for the Amélie Poulain character disguised as Zorro:

- The character of Amélie Poulain is described as having an ordinary appearance, with no marked distinguishing features, apart from her haircut with short bangs. The fact that she sometimes hides behind accessories such as large glasses, a scarf, sunglasses, or a black mask and large black hat, is not a recurring or characteristic behavior of the heroine.

- The distinctive elements of the Zorro costume are not susceptible to individual appropriation, as they fall within the common domain of the disguise universe. As a result, the Court found that the character of Amélie Poulain in Zorro costume lacked the originality necessary to qualify for copyright protection, thus rejecting the infringement claims.





Stéphanie Berland

Partner

T: +33 1 40 69 26 63

E: s.berland@dwf.law



Emmanuel Durand

Partner

T: +33 1 40 69 26 83

E: e.durand@dwf.law



Florence Karila

Partner

T: +33 1 40 69 26 57

E: f.karila@dwf.law



Anne-Sylvie Vassenaix-Paxton

Partner

T: +33 1 40 69 26 51

E: as.vassenaix-paxton@dwf.law

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