

Newsletter

IP / Media

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Prescription and music counterfeiting

The Court of Cassation specifies that the prescription runs as long as the illegal diffusion continues.

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NEWS INTELLECTUAL PROPERTY

The Court of Cassation clarifies the starting point of the prescription for music counterfeiting

[Court of Cassation, civil division, M. VJ et al. v. EMI Music Publishing France et al., 3 September 2025, No. 23-18.669, published in the Bulletin](#)

On 3 September 2025, the First Civil Chamber of the Court of Cassation handed down an important ruling on musical counterfeiting, clarifying the starting point of the prescription.

The French authors of the theme song for the animated series Code Lyoko had accused the Black Eyed Peas of copying elements of their song "Un monde sans danger" in the song "Whenever," released in 2010. A formal notice was sent in 2011, but legal action was not taken until 2018, with the plaintiffs citing the continued exploitation of the song (sales and digital diffusion).

In 2023, however, the Paris Court of Appeal ruled that the action was time-barred on the basis of Article 2224 of the Civil Code, which provides that personal or movable property actions are time-barred five years from the date on which the holder of a right knew or should have known the facts enabling them to exercise it. The Court of Appeal had ruled that the five-year period began in 2011, when the authors became aware of the infringement. It considered subsequent acts to be a mere extension of the initial exploitation.

The Court of Cassation overturned this decision. It considered that since the distribution of the infringing work had been established within the five years preceding the action, the action was not time-barred. In so ruling, the Court of Appeal had therefore misinterpreted the provisions of Article 2224 of the Civil Code. The case was referred back to the Paris Court of Appeal with a different composition.



NEWS INTELLECTUAL PROPERTY

EUIPO cancellation of OpenAI's "GPT" word mark for artificial intelligence software and services

EUIPO, Century Tal Holding Pte. Ltd. v. OpenAI, 17 October 2025, No. 64174

On 17 October 2025, the European Union Intellectual Property Office (EUIPO) cancelled the word mark "GPT" registered by OpenAI for classes 9 and 42 (software and services related to artificial intelligence). This decision follows an action brought by Century Tal Holding Pte. Ltd.

The EUIPO considered that the term "GPT", an acronym for "Generative Pre-trained Transformer", was already widely recognised by professionals in the sector as a technical designation. Consequently, it could not be monopolised by a single company. Two main arguments were upheld :

1. Descriptiveness: on the priority date (December 2022), "GPT" was perceived as a technical characteristic, not as a distinctive sign.
2. Identification function: a descriptive term cannot fulfil the essential function of a trademark, namely to identify the commercial origin of goods or services.

OpenAI has two months to appeal. If the appeal confirms the descriptive nature and lack of distinctiveness, the EUIPO could then examine whether "GPT" has acquired distinctiveness through use. This would involve proving that the term is now associated with OpenAI in the minds of the European public, particularly thanks to the notoriety of ChatGPT.

Refusal by the General Court of the European Union of the international registration of the trademark "1926" by watchmaker TUDOR on the grounds of descriptiveness.

General Court of the European Union, Montres Tudor SA v EUIPO, 10 September 2025, T-444/24

Swiss watchmaker TUDOR, known for its expertise and heritage, attempted to register the trademark "1926" as part of an international application covering nearly 90 countries. While this move was widely accepted globally, it encountered a major obstacle within the European Union.

The General Court of European Union refused to register "1926" as a trademark in the EU, ruling that this date could be perceived as a descriptive reference to the year of design or foundation, rather than as a distinctive sign capable of identifying the commercial origin of the products.

This refusal, although predictable under European trade mark law (see, for example, in the same vein, 29 October 2015, SANDER 1953, T-21/14), highlights an interesting tension: how can a simple date be both a symbol of tradition and a legal obstacle for other manufacturers due to its unavailability as a result of its registration as a trademark? In the luxury sector, particularly watchmaking, references to time are often used to evoke quality, durability and prestige.

Despite this European refusal, the "1926" trademark has nevertheless been validated in nearly 60 countries, including key markets such as the United Kingdom, South Korea and the United Arab Emirates. This shows that the perception of a trademark can vary considerably depending on the jurisdiction.

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The General Court of the European Union has handed down an important decision on sound marks

[General Court of the European Union, Berliner Verkehrsbetriebe v EUIPO, 10 September 2025, T-288/24](#)

The General Court of the European Union (GCEU) has just handed down an important decision on sound marks, which could well redefine the criteria for registering these distinctive signs.

In this case, the EUIPO had refused to register a 4-second jingle intended for transport services in Berlin, ruling that the sound was too short and too simple to be memorable. The GCEU rejected this analysis, stating that a jingle, which is by nature short and punchy, can perfectly well fulfil a distinctive function. It emphasises that brevity is precisely what makes it easy to remember and draws the public's attention to the commercial origin of the services.

This decision marks a turning point: it paves the way for broader recognition of sound marks, particularly jingles, without the need to demonstrate distinctiveness acquired through use. It is part of a trend towards a more flexible approach, which has already begun with multimedia marks.

The use of "by" followed by the company name is not sufficient to differentiate it from the earlier well-known trademark.

[General Court of the European Union, OMV AG v EUIPO, 3 September 2025, T-303/24](#)

In a recent case between OMV and the trademark "OMV! BY VAGISIL", the General Court of the European Union (GCEU) annulled a decision by the EUIPO Board of Appeal concerning infringement of a well-known trademark. OMV, a well-known brand in Austria for oils, challenged the registration of the trademark "OMV! BY VAGISIL" in classes 3 and 5, citing a likelihood of confusion and infringement of its reputation.

The Board of Appeal had considered that the public would perceive the contested sign as a whole, in particular thanks to the addition of "BY VAGISIL", which would clearly indicate the origin of the goods and reduce the likelihood of a link with the OMV trademark. However, the GCEU rejected this analysis, emphasising that the element "OMV" is the dominant part of the contested trademark, appearing at the beginning of the sign and possessing intrinsic distinctiveness.

According to the GCEU, the addition of the company name is not sufficient to exclude the existence of a link between the conflicting marks. It points out that the mere mention of "BY..." may, in certain cases, suggest a partnership or common origin, thereby increasing the likelihood of confusion in the mind of the public.

This decision confirms established case law: the use of a well-known mark, even when accompanied by a company name, may infringe its rights if the element used is distinctive and dominant.



NEWS INTELLECTUAL PROPERTY



New episode in the Louboutin case before the Court of Cassation, which reiterates that counterfeiting is first and foremost a criminal offence

[Court of Cassation, Criminal Division, 10 September 2025, No. 24-81.914](#)

In a ruling handed down on 10 September 2025, the Criminal Division of the Court of Cassation firmly reiterated that counterfeiting is not only a civil infringement of intellectual property rights, but also a criminal offence punishable by severe penalties.

In this case, the manager of a company was found guilty of importing, possessing and selling bags and shoes that illegally reproduced the famous red sole characteristic of Louboutin products.

The courts sentenced him to a ten-month suspended prison term, a fine of €15,000 and a joint custom fine of €100,000.

The Court of Cassation :

- confirmed the validity of the trademark consisting of the colour red applied to a sole, considered to be an arbitrary and distinctive sign, in accordance with the case law of the Court of Justice of the European Union (CJEU, 12 June 2018, C-163/16);
- recognises the existence of a likelihood of confusion for the average consumer, even when the shoe is entirely red;
- validates the combination of criminal and customs penalties, specifying that they fall under separate legal regimes and do not form an indivisible whole;
- partially overturns the appeal judgment with regard to civil interests, due to insufficient reasoning on the assessment of damage, in light of the criteria set out in Article L. 716-14 of the Intellectual Property Code.

This ruling illustrates the line of case law followed by the Court: a rigorous approach in procedural terms, combined with firm enforcement against infringements of intellectual property rights. Counterfeiting remains a criminal offence, not a mere economic dispute.

NEWS INTELLECTUAL PROPERTY



The Paris Judicial Court rules on the balance between the transfer of rights to a name and the moral right to sign one's creations

Paris Judicial Court, S.A.S. AMS Design v. S.A. Grupo Massimo Dutti et al., 11 September 2025, No.21/00963

The Paris Court of Justice recently handed down a ruling concerning the use of family names in the fashion industry. A renowned designer had transferred the economic rights to her name to the company AMS DESIGN. This transfer included authorisation to use her name in the company name, as a trade name, brand name, logo, domain name, and even in social media URLs.

Following this transfer, the designer collaborated with Massimo Dutti on a jewellery collection entitled Curated Pieces, presented as having been created by "Mademoiselle [L] [B]". AMS, the owner of the corresponding word mark, brought an action for trademark infringement.

The designer invoked her moral right as author to justify the use of her name, arguing that it allowed her to sign her works. The court rejected this argument, ruling that moral rights cannot be exercised to the detriment of the trademark owner's rights or contractual commitments. It emphasised that the transfer of the trademark by the author himself implies an obligation of peaceful enjoyment towards the transferee. The court therefore ordered a ban on the possession and sale of jewellery and other infringing items after a period of 30 days, the payment of €75,000 in damages and €35,000 under Article 700 of the Code of Civil Procedure.



Interesting ruling on the relationship between summary proceedings and copyright protection

Paris Court of Appeal, Jours de passions v. Editions les arènes, 1st october 2025, n° 24/15621

On 1 October 2025, the Paris Court of Appeal handed down a ruling on the relationship between the summary proceedings regime provided for in the Code of Civil Procedure and copyright protection. In this case, the publisher of a hunting magazine sought summary proceedings to suspend the publication of a work that it believed reproduced protected passages from its articles. The defendant contested the originality of the texts in question and the ownership of the rights invoked.

Article 834 CPC authorises the judge hearing the application for interim relief to order measures in urgent cases, provided that they are not seriously contested or are justified by the existence of a dispute. Article 835 CPC provides that protective or remedial measures may be prescribed even in the presence of a serious dispute, in order to prevent imminent damage or to put an end to a manifestly unlawful disturbance.

The applicant argued that the dispute over originality did not preclude the application of Article 835. However, the Court pointed out that, in order to characterise a manifestly unlawful disturbance, the works claimed must appear, with the evidence required in summary proceedings, to be protectable by copyright. In this case, the applicant had not demonstrated this evidence. The Court therefore concluded that the alleged disturbance could not be characterised as manifestly unlawful and dismissed the application.

NEWS INTELLECTUAL PROPERTY

The General Court of the European Union clarifies the concept of legitimate interest in trademark law

General Court of the European Union, Ffauf Italia SpA v EUIPO, 10 September 2025, T-425/24



The Board of Appeal upheld the opposition, finding that the earlier trademark was well known, that the signs were highly similar and that the use of the trademark applied for was likely to take unfair advantage of that reputation, in the absence of any proven legitimate reason. On appeal, the Court clarified the scope of this concept.

It pointed out that the "legitimate reason" is intended to balance the interests of the proprietor of a well-known trademark and those of a third party using a similar sign to designate its products. Such a reason may be recognised if the sign has been used prior to the filing of the well-known trademark and in good faith, taking into account the reputation of the sign, the nature of the products and the economic relevance of its use.

In this case, Ffauf Italia proved the prior and legitimate use of "pastazara", linked to the historical origin of its activity and to international registrations. As the products concerned (pasta) are unrelated to fashion, the Court concluded that there were valid reasons and annulled the contested decision.

The General Court of the European Union annulled the decision of the EUIPO Board of Appeal and, for the first time, recognised the existence of a legitimate reason for the use of a sign similar to a well-known trademark. The case pitted Ffauf Italia SpA, which had applied to register the figurative mark "pastaZARA Sublime" for pasta, against Industria de Diseño Textil SA, owner of the word mark "ZARA", which had filed an opposition.



NEWS INTELLECTUAL PROPERTY

Recent EUIPO decision illustrating the common phenomenon of "disemvowelling"

[EUIPO, Luis Caballero S.A v Cocktails & Prebatch AB, 21 October 2025 , No. 003220868](#)

The phenomenon of "disemvowelling", which consists of removing the vowels from a word, has become a common marketing technique, allowing brands to remain recognisable despite this modification. However, this practice raises questions in trademark law, particularly when used by counterfeiters. The absence of vowels alters the visual, phonetic and intellectual aspects of the signs, which could, in theory, reduce the likelihood of confusion.

A recent decision by the EUIPO illustrates this issue. The owner of the CONTRABANDO trademark, registered for alcoholic beverages, opposed the application to register the sign CNTRBN for identical products. The EUIPO found that there was a likelihood of confusion, considering that consumers are now familiar with this technique. According to the Office, the public is accustomed to seeing trademarks or slogans without vowels and tends to instinctively restore the missing letters when reading them. Thus, despite the graphic difference, the sign CNTRBN will be perceived as a variation of CONTRABANDO.

This decision confirms that, in analysing the likelihood of confusion, the habits of the public play a decisive role. When the process is widespread, the removal of vowels is not sufficient to distinguish the signs. It also serves as a reminder that the protection of well-known or distinctive marks remains strong, even in the face of attempts to circumvent it through typographical devices.



NEWS MEDIA, ENTERTAINMENT AND ADVERTISING



Shein and its communications agency condemned by the Advertising Ethics Jury

[Advertising Ethics Jury, 13 October 2025, Shein – 1063/25](#)

On 10 October 2025, the Advertising Ethics Jury, a body associated with the French Advertising Regulatory Authority (ARPP), issued an opinion on Shein's campaign entitled "Fashion is a right, not a privilege". According to the Jury, this campaign does not comply with several fundamental principles of the ethical framework applicable to the advertising profession.

The opinion highlights three main breaches: a lack of truthfulness, a lack of clarity and a failure to comply with the principles of social and environmental responsibility. These obligations are defined in particular by the International Chamber of Commerce's Code of Advertising Practice and by the ARPP's "Sustainable Development" Recommendation. The Jury considers that the message conveyed by the campaign is misleading and does not reflect the expected commitments in terms of sustainability and social responsibility.

It should be noted that the Advertising Ethics Jury has no power to impose sanctions. Its opinions, which are made public, aim to promote compliance with ethical rules and encourage industry players to adopt practices that comply with professional standards. In this case, the criticism extends to the Shein brand and its communications agency, highlighting their shared responsibility in the design and dissemination of advertising messages.

This opinion illustrates the increased vigilance of professional bodies towards campaigns that claim to uphold societal values without providing concrete evidence, particularly in the fashion industry.

NEWS MEDIA, ENTERTAINMENT AND ADVERTISING



The Paris Court of Justice ruled that the film access service via the TGV Portal is not subject to media chronology

[Paris Court of Justice, S.A.S. Société d'édition de Canal Plus et al. v. S.A. Société nationale SNCF, 3 October 2025, No. 23/04212](#)

In a ruling handed down on 3 October, the Paris Court of Justice ruled in favour of SNCF against Canal+ concerning its "Portail TGV inOui" service, which offers passengers recent films, some of which have been in cinemas for less than 36 months. Canal+ contested this offer, arguing that it contravened media chronology and should be considered an on-demand audiovisual media service.

The court rejected this interpretation, based on European Directive 2018/1808 and the case law of the CJEU. It emphasised that the film service offered by SNCF is intrinsically linked to rail transport: access is conditional on the purchase of a ticket, limited in time and space, and does not constitute an independent offer of audiovisual content.

Thus, the TGV inOui Portal is not subject to the obligations imposed on video-on-demand platforms and is exempt from media chronology rules.

The Paris Court of Appeal requires X (formerly Twitter) to be fully transparent with the press

[Paris Court of Appeal, X Internet Unlimited Company v/Société Editrice du Monde, 25 September 2025, No. 24/17261](#)

On 25 September 2025, the Paris Court of Appeal upheld a summary judgment requiring X (formerly Twitter) to provide press publishers with all the audience and revenue data necessary to calculate the remuneration provided for in Article L.218-4 of the Intellectual Property Code. This decision marks an important step in the implementation of the neighbouring rights established to guarantee fair remuneration for publishers for the use of their content by platforms.

The Court rejected arguments based on the IPRED Directive and the Digital Services Act, stating that the aim is not to impose generalised surveillance, but to ensure effective transparency. Platforms must now be able to provide, at the request of publishers, all usage and economic data necessary to assess the value generated by their content.

This decision consolidates the European foundation of transparency between platforms and publishers by strengthening cooperation obligations and clarifying the methods for calculating remuneration. It comes at a time when relations between digital players and the press are the subject of particular attention, particularly with a view to ensuring a balance between technological innovation and the financing of information.





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