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Press and Information

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Judgment of the Court of First Instance in Case T-134/06

Xentral LLC v OHIM

THE SIGN “PAGESJAUNES.COM” CANNOT BE REGISTERED AS A COMMUNITY TRADE MARK

A likelihood of confusion, in France, between the trade mark applied for PAGESJAUNES.COM and the earlier trade mark LES PAGES JAUNES precludes its registration as a Community trade mark

In 2000 an American company, Prodis Inc., now Xentral LLC, applied to the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) for registration of the word sign PAGESJAUNES.COM as a Community trade mark for various goods, inter alia, printed matter, periodicals and directories.

In 2003, following publication of the application, the company Pages Jaunes SA opposed the registration.

In 2006, the Board of Appeal of OHIM confirmed the decision of the Opposition Division upholding the opposition, ruling that, given that the relevant goods were identical, there was a likelihood of confusion in France, since the trade mark applied for PAGESJAUNES.COM would be perceived as the internet version of the paper-based directory bearing the LES PAGES JAUNES trade mark and that the goods in question would therefore be considered to come from the same undertaking.

Xentral LLC has contested that decision before the Court of First Instance.

The Court finds, first, that it does not have jurisdiction to rule on a conflict between an earlier national trade mark and rights over earlier domain names. Thus, Xentral LLC could not rely on its claimed earlier right based on the domain name ‘pagesjaunes.com’ in the present proceedings before the Court.

The Court then carries out a comparative analysis of the signs and concludes that the marks in question are similar. Therefore the Board of Appeal of OHIM was fully entitled to find that the similarity between the marks is striking, both at the visual and aural levels and at the conceptual level.

In the context of the overall assessment of the likelihood of confusion, the Court concludes that, whether or not the earlier trade mark LES PAGES JAUNES had only a weak distinctive character, there is, in the present case, a likelihood of confusion given the identical nature of the goods in question and the similarity between the opposing marks. It therefore upholds the decision of the Board of Appeal of OHIM and dismisses Xentral LLC's action.

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

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Languages available: EN, FR

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T-134/06>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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