



# 5<sup>th</sup> IP Case Law Conference

Decoding Decisions: Insights from Selected Case – Law

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29 - 30 April 2024



# Reconciling the Old with the New: Challenges of Trade Mark Modernization

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**Avoiding arbitrariness:  
The role of subcategories in genuine use**

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Broadly similar (Article 18(1)(a) EUTMR)

Strict identity, or included in the broader term

### RELEVANT



- purpose or intended use (therapeutic indication)
- neither artificial nor arbitrary
- no real difference between goods and services (same group)
- economic interest (legitimate interest to expand)

### NOT RELEVANT



- nature of the goods and services
- common characteristics of the goods and services

T-242/22, Lutamax	Registered	Used	Maintained
	dietetic substances adapted for medical use, dietary supplements adapted for medical or dietetic use [Cl. 5]	dietary supplements adapted for medical or dietetic use for the treatment of age-related macular degeneration; eye care preparations (for pharmaceutical purposes) for the treatment of age-related macular degeneration; none of the aforesaid goods for veterinary purposes'	dietary supplements adapted for medical or dietetic use, none of the aforesaid goods for veterinary purposes
T-585/22, ARTESAN	Registered	Used	Maintained
	food supplements for medical purposes [Cl. 5]	Food supplements to improve condition of joints	food supplements for medical purposes

T-747/21, Fohlenelf	Registered	Used	Maintained
	Body and beauty care products; soaps; perfumery; essential oils; hair lotions [Cl. 3]	Hair & body shampoo	Shampoo, soaps
	Self-adhesive films made of paper or plastic, self-adhesive labels, stickers [Cl. 16]	Stickers	Self-adhesive films made of paper or plastic, self-adhesive labels, stickers
	Playing cards, card games; Games, toys [Cl. 28]	Playing cards, card games	Playing cards, card games; games, toys

R 2595/2015-G, PELLICO	Registered	Used	Maintained
	footwear [Cl. 25]	ladies' slip-ons and high heels for casual or festive wear	women's shoes

T-63/22. BROOKS	Registered	Used	Maintained
	athletically related footwear [Cl. 25]	running shoes	athletically related footwear

C-714/18P, TAIGA	Registered	Used	Maintained
	clothing [Cl. 25]	weather-protective outdoor clothing	clothing

T-589/20, YAMAMAY	Registered	Used	Maintained
	articles of clothing [Cl. 25]	underwear, nightwear and swimwear	clothing

T-562/22, NOAH	Registered	Used	Maintained
	Clothing, ... sweater, ... [Cl. 25]	sweater vests	sweater

T-603/22, ROYAL MILK	Registered	Used	Maintained
	milk and milk products with the exception of ice creams and milk desserts [Cl. 29]	milk powder for food purposes	milk powder for food purposes

T-161/23, Rebell	Registered	Used	Maintained
	milk and milk products [Cl. 29]	cheese	???

# Thanks for your attention



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