

Case T-134/06

Xentral LLC

v

**Office for Harmonization in the Internal Market
(Trade Marks and Designs) (OHIM)**

(Community trade mark — Opposition proceedings — Application for the Community word mark PAGESJAUNES.COM — Earlier national figurative mark LES PAGES JAUNES — Domain name ‘pagesjaunes.com’ — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

Judgment of the Court of First Instance (Third Chamber), 13 December 2007 II - 5215

Summary of the Judgment

1. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark*
(Council Regulation No 40/94, Art. 8(1)(b))

2. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark*

(Council Regulation No 40/94, Art. 8(1)(b))

1. For the average French consumer, there is a likelihood of confusion between the word sign PAGESJAUNES.COM registration of which as a Community trade mark is sought for 'Printed matter, newspapers, periodicals, directories' within Class 16 of the Nice Agreement and the word mark LES PAGES JAUNES previously registered in France for the same goods, given that the goods in question are identical and given the similarity between the opposing signs at both the visual and aural levels and the conceptual level. French consumers could think that the trade mark applied for, PAGESJAUNES.COM, is the internet version of the paper-based directory bearing the LES PAGES JAUNES trade mark and that, therefore, the two products are offered by the same undertaking.
2. Although, when examining an opposition under Article 8(1)(b) of Regulation No 40/94 on the Community trade mark by the proprietor of the earlier trade mark, the distinctive character of that mark must be taken into account when assessing the likelihood of confusion, it is only one factor among others involved in that assessment. Thus, even in a case involving an earlier mark of weak distinctive character, there may be a likelihood of confusion on account, in particular, of a similarity between the signs and between the goods or services covered.

(see paras 64, 72)

(see para. 70)