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The Cyprus Registrar of Intellectual Property (Registrar) delivered three reasoned decisions on the 29th of May 2024 concerning three oppositions filed on 07.09.2021 by Antargaz of France (the “Respondents”). Antargaz, are the registered owners of earlier European Union figurative and verbal trademarks “antargaz”, “antargaz energies” and “ANTARGAZ ENERGIES”. Antargaz filed three oppositions against the applications filed on 25.11.2020 by Intergaz Ltd, Intergaz Energy Solutions Ltd and Intergaz Chartering Ltd (together, the “Applicants”) for the registration of the figurative -3-trademarks.

Our law firm represented the Applicants in these opposition proceedings.

The Oppositions were based on earlier trademarks of the Respondents, namely: (1) antargaz energies and design No. 018040643 in classes 1, 4, 6, 7, 9, 11, 16, 20, 35, 36, 37, 39, 40, 42; (2) antargaz and design No. 018040634 in classes 1, 4, 6, 7, 9, 11, 16, 20, 35, 36, 37, 39, 40, 42; and (3) ANTARGAZ ENERGIES word No. 018040476 in classes 1, 4, 6, 7, 9, 11, 16, 20, 35, 36, 37, 39, 40, 42.

The Respondents argued that the Applicant's registrations would confuse consumers and pose a risk of association due to the similarity of the Applicant's marks and their designation of goods in the same classes. Furthermore, the Respondents alleged that the use of the Applicants' trademarks would unfairly benefit from the distinctive character and reputation of the Respondent's marks.

Identity/similarity of marks

In its reasoned decisions, the Registrar primarily examined the overall impression created by the compared marks in terms of visual, aural and conceptual similarity.

Regarding Intergaz Ltd's trademark, the Registrar found that the visual similarity with Antargaz's trademarks is low. The Registrar determined that the aural (or phonetic) similarity between the two marks is low, and conceptually, the overall impression is that they have a low degree of similarity as well.

For Intergaz Energy Solutions Ltd's trademark, the Registrar determined that the visual similarity with the trademarks of Antargaz is low. Regarding aural similarity, the Registrar determined that the two marks have low phonetic similarity. The Registrar did however find that conceptually, there is a moderate degree of similarity between the marks.

As for Intergaz Chartering Ltd's trademark, the Registrar concluded that the visual similarity with Antargaz's trademarks is low. Regarding aural similarity, the Registrar ascertained that the two marks have low phonetic similarity. The Registrar also finds that conceptually, the overall impression is that they have a low degree of similarity.

Identity/similarity of services /products

The Registrar proceeded to examine similarity in the goods in each case, by comparing their common classes.

Intergaz Ltd's trademark shares the following common classes with Antargaz: classes 4, 37 and 39. The Registrar noted that the common goods of these marks are LPG and gas storage services, indicating a clear product identification in the present case. However, the visual, aural and conceptual differences between the marks prevent any confusion.

Similarly, Intergaz Energy Solutions Ltd's trademark shares the following common classes with Antargaz: classes 11, 37, and 42. The Registrar pointed out that the common goods of these marks are generally include air conditioning systems and air conditioning repairs, indicating is a product identification in this case as well. Nevertheless, the visual, aural and conceptual differences between the marks prevent any confusion.

Finally, Intergaz Chartering Ltd's trademark shares the following common class with ANTARGAZ: class 39. The Registrar noted that both marks share common services, namely the chartering of vessels, establishing a clear service identification in the present case. However, the visual, aural and conceptual differences between the marks prevent any confusion.

Based on its overall assessment, the Registrar concluded that it can be reasonably deduced that the respective marks are not identical or similar from a visual, aural and conceptual perspective.

Reputation

The Registrar was of the view that the Respondents failed to prove that their mark has a reputation or a physical presence in the Cypriot market. A mark is considered to have a reputation when it is known to a significant portion of the public relevant to the goods or services covered. Consequently, the Registrar concluded that there was no question of damage to the reputation of the Respondent's marks.

Damage

The Registrar identified three potential types of harm to the earlier marks: unfair advantage from their distinctive character, damage to their distinctive character, and harm to their reputation. However, it is not apparent from the evidence provided that there is a risk of harm to the earlier marks, nor do the registrations of the applicant's marks appear likely to take unfair advantage of the Respondents' earlier marks' reputation as they concern different services and products. The alleged harm is not substantiated by the Respondents' evidence.

After considering the arguments of both Parties and applying the relevant legal principles, legislation and case law, the Registrar dismissed the oppositions and approved the trademark applications numbers 91160, 91158, 91159 respectively, for the registration of the marks "Intergaz" under classes 4, 37 and 39, "Intergaz Energy Solutions" under classes 11, 37 and 42, and "INTERGAZ CHARTERING" under class 39. In conclusion, the Registrar's thorough examination of the similarities and potential harm associated with the trademarks led to the dismissal of the oppositions filed by Antargaz. The evidence presented did not substantiate the claims of potential confusion or harm to the reputation of Antargaz's marks. Consequently, the trademark applications for "Intergaz," "Intergaz Energy Solutions," and "INTERGAZ CHARTERING" were unconditionally approved for registration, affirming the distinctiveness of the Applicants' marks.