

## JUDGMENT OF THE GENERAL COURT (Fifth Chamber)

21 April 2021 (\*)

(EU trade mark – Opposition proceedings – Application for EU figurative mark representing a circle containing two interlaced curves – Earlier national figurative mark representing two interrupted circles interlaced horizontally – Earlier national figurative mark representing a circle containing two interrupted circles interlaced horizontally – Relative grounds for refusal – No likelihood of confusion – No similarity between the signs – Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) – No damage to reputation – Article 8(5) of Regulation No 207/2009 (now Article 8(5) of Regulation 2017/1001))

In Case T-44/20,

**Chanel**, established in Neuilly sur-Seine (France), represented by J. Passa, lawyer,

applicant,

v

**European Union Intellectual Property Office (EUIPO)**, represented by J. Crespo Carrillo and V. Ruzek, acting as Agents,

defendant,

the other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court, being

**Huawei Technologies Co. Ltd**, established in Shenzhen (China), represented by M. Edenborough, QC,

ACTION brought against the decision of the Fourth Board of Appeal of EUIPO of 28 November 2019 (Case R 1041/2019-4), relating to opposition proceedings between Chanel and Huawei Technologies,

THE GENERAL COURT (Fifth Chamber),

composed of D. Spielmann, President, U. Öberg and R. Mastroianni (Rapporteur), Judges,

Registrar: E. Coulon,

having regard to the application lodged at the Court Registry on 27 January 2020,

having regard to the response of EUIPO lodged at the Court Registry on 17 July 2020,

having regard to the response of the intervener lodged at the Court Registry on 23 July 2020,

having regard to the fact that no request for a hearing was submitted by the parties within three weeks after service of notification of the close of the written part of the procedure, and having decided to rule on the action without an oral part of the procedure, pursuant to Article 106(3) of the Rules of Procedure of the General Court,

gives the following

## Judgment

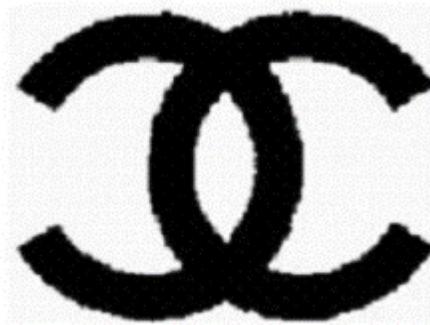
### Background to the dispute

- 1 On 26 September 2017, the intervener, Huawei Technologies Co. Ltd., filed an application for registration of an EU trade mark with the European Union Intellectual Property Office (EUIPO) pursuant to Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1), as amended (replaced by Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ 2017 L 154, p. 1)).
- 2 Registration as a mark was sought for the following figurative sign:

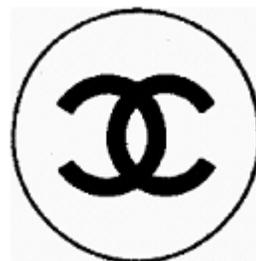


- 3 The goods in respect of which registration was sought are in Class 9 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended, and correspond to the following description: ‘Computer hardware and computer software programs for the integration of text, audio, graphics, still images and moving pictures into an interactive delivery for multimedia applications; computer hardware and software used for the control of voice controlled information and communication devices; voice response equipment; voice recognition software; computer hardware and software for the remote control of electric lighting, temperature controlling apparatus and electronic products; downloadable software for managing mobile WIFI; mobile phones; USB modems; wireless modems; gateway in the nature of telecommunications and data networking hardware, namely, gateway routers in the nature of computer control hardware; modems; set-top boxes; computer terminals, namely, table multi-functional video terminals with accessing internet, making phone calls, viewing videos and playing games functions; mobile broadband accessing terminal devices and equipment, namely, modems for mobile broadband; network and telephone call routers; communication modules, namely, integrated circuit modules; PDA (personal digital assistant); batteries; battery chargers; computer mouse; earphones and headphones; software in the communication field, namely, computer software for managing, operating and maintaining video conferencing, computer software for data communications, computer software for use in database management and network management, computer software for use as a spreadsheet and word processing; computer equipment, namely, wireless cards, wireless adapters used to link computers to a telecommunications network; computer network adapters; computer programs, recorded; computer programs [downloadable software]; computer software applications, downloadable; computer operating programs, recorded; wireless headsets for mobile phone; wireless headsets for smart phone; digital set top boxes; Smartglasses; smartwatches; protective films adapted for computer screens; wearable activity trackers; covers for smartphones; cases for smartphones; protective films adapted for mobile phone screens; selfie sticks, handheld monopods; parts and fittings for all the aforesaid goods.’
- 4 The EU trade mark application was published in *European Union Trade Marks Bulletin* No 193/2017 of 11 October 2017.
- 5 On 28 December 2017, the applicant, Chanel, filed a notice of opposition pursuant to Article 41 of Regulation 2017/1001 to registration of the mark applied for in respect of the goods referred to in paragraph 3 above.

- 6 The opposition was based, first, on the ground set out in Article 8(1)(b) of Regulation 2017/1001 and on the earlier French figurative mark, filed on 24 January 2013 and registered on 17 May 2013 under No 3977077, covering, inter alia, goods in Class 9 corresponding, inter alia, to the following description: ‘Cameras, sunglasses, glasses; earphones and headphones; computer hardware’, reproduced below:



- 7 Second, it was based on the ground set out in Article 8(5) of Regulation 2017/1001 and on the French trade mark, filed on 11 December 1985, registered under No 1334490 and renewed until 11 December 2025 (‘the allegedly reputed mark’), covering, inter alia, goods in Classes 3, 14, 18 and 25 corresponding to the following description: ‘Perfumes, cosmetics, costume jewellery, leather goods, clothes’, reproduced below:



- 8 On 19 March 2019, the Opposition Division rejected the opposition in its entirety.
- 9 On 14 May 2019, the applicant filed a notice of appeal with EUIPO, pursuant to Articles 66 to 71 of Regulation 2017/1001, against the decision of the Opposition Division.
- 10 By decision of 28 November 2019 (‘the contested decision’), the Fourth Board of Appeal of EUIPO dismissed the appeal. In particular, it found that there was no likelihood of confusion on the part of the relevant public in relation to the earlier mark, within the meaning of Article 8(1)(b) of Regulation 2017/1001, and that the first of the conditions for the application of Article 8(5) of Regulation 2017/1001, namely that concerning the identity or similarity of the signs at issue, was not satisfied in the present case, given that the mark applied for was different from the allegedly reputed mark.

### **Forms of order sought**

- 11 The applicant claims that the Court should:
- as regards the opposition based on Article 8(5) of Regulation 2017/1001, annul the contested decision in so far as it states that the mark applied for is not similar to the allegedly reputed mark;
  - as regards the opposition based on Article 8(1)(b) of Regulation 2017/1001, annul the contested decision in so far as it states that the mark applied for is not similar to the earlier mark;
  - order EUIPO to pay the costs.

12 EUIPO contends that the Court should:

- dismiss the action;
- order the applicant to pay the costs.

13 The intervener claims that the Court should:

- dismiss the action;
- order the applicant and EUIPO jointly and severally to pay the costs incurred by the intervener in connection with the present proceedings and the proceedings before EUIPO.

## Law

14 Given the date on which the application for registration at issue was filed, namely 26 September 2017, which is decisive for the purposes of identifying the applicable substantive law, the facts of the case are governed by the substantive provisions of Regulation No 207/2009.

15 In support of the action, the applicant relies on two pleas in law. By its first plea, the applicant submits that the Board of Appeal made an error of assessment when it rejected the opposition in so far as it was based on Article 8(5) of Regulation No 207/2009 (now Article 8(5) of Regulation 2017/1001). By its second plea, the applicant submits that the Board of Appeal made an error of assessment when it rejected the opposition in so far as it was based on Article 8(1)(b) of Regulation No 207/2009 (now Article 8(1)(b) of Regulation 2017/1001).

### *The first plea, alleging infringement of Article 8(5) of Regulation No 207/2009*

16 The applicant submits that registration of the mark applied for in respect of the goods referred to in paragraph 3 above should have been refused on the basis of Article 8(5) of Regulation No 207/2009, in so far as that mark is similar to the allegedly reputed mark.

17 Under Article 8(5) of Regulation No 207/2009, upon opposition by the proprietor of a registered earlier trade mark within the meaning of paragraph 2, the trade mark applied for is not to be registered where it is identical with, or similar to, an earlier trade mark, irrespective of whether the goods or services for which it is applied are identical with, similar to or not similar to those for which the earlier trade mark is registered, where, in the case of an earlier EU trade mark, the trade mark has a reputation in the European Union or, in the case of an earlier national trade mark, the trade mark has a reputation in the Member State concerned, and where the use without due cause of the trade mark applied for would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark.

18 For an earlier trade mark to be afforded the broader protection under Article 8(5) of Regulation No 207/2009, three conditions must be satisfied: (i) the marks at issue must be identical or similar; (ii) the earlier mark cited in opposition must have a reputation; and (iii) there must be a risk that the use without due cause of the trade mark applied for would take unfair advantage of, or be detrimental to, the distinctive character or the repute of the earlier trade mark. Those three conditions are cumulative and failure to satisfy one of them is sufficient to render that provision inapplicable (see judgment of 9 March 2012, *Ella Valley Vineyards v OHIM – HFP (ELLA VALLEY VINEYARDS)*, T-32/10, EU:T:2012:118, paragraph 18 and the case-law cited).

19 In the present case, the Board of Appeal found that the mark applied for and the allegedly reputed mark were not similar. It observed that from a visual point of view the marks had a different structure and were composed of different elements. The mere presence, in each of the marks at issue, of two elements that are connected to each other does not render the marks similar even though they share the basic geometric shape of a circle surrounding those elements. Whilst a phonetic comparison of the marks at issue is

impossible, those marks are also not similar from a conceptual point of view. Therefore, as the marks at issue were dissimilar, the Board of Appeal concluded that the first of the cumulative conditions referred to in paragraph 17 above had not been satisfied, so that the opposition filed by the applicant pursuant to Article 8(5) of Regulation No 207/2009 had to be rejected on that ground alone; the Board of Appeal finding that it was not necessary to further examine the other conditions for the application of that provision.

- 20 According to the applicant, the mark applied for and the allegedly reputed mark are similar overall to an average degree, or even to an average to low degree when they are viewed in the orientation in which they are applied for and to an average to high degree when the mark applied for is rotated by 90 degrees. In that regard, the applicant submits that the Board of Appeal erroneously ruled out as a matter of principle any possibility of taking into account the mark applied for in an orientation other than that in which it had been filed on the incorrect ground that trade marks should always be compared as applied for and registered. The applicant claims that it is permissible, by contrast, to take account of the different orientation of one of the signs if it corresponds to the perception which, irrespective of the intentions of its proprietor, the public may have of it when the mark is affixed to goods on the market.
- 21 From a visual point of view, the applicant submits that the comparison of the mark applied for and the allegedly reputed mark, in the orientation in which they were applied for, does not exclude certain similarities, so that those marks may be regarded as displaying similarities. According to the applicant, when the mark applied for is rotated by 90 degrees, the allegedly reputed mark and the mark applied for are, at the very least, visually similar to an average degree. From a phonetic point of view, the applicant submits that the Board of Appeal was right to find that a phonetic comparison of the marks at issue was impossible, since they could not be pronounced. From a conceptual point of view, according to the applicant, the Board of Appeal erred in finding that the marks at issue were dissimilar. The applicant maintains that since the signs have no meaning and do not convey any concept, the Board of Appeal should have found that there was no need to carry out a conceptual comparison.
- 22 EUIPO and the intervener dispute the applicant's arguments.
- 23 It should be recalled that, according to the case-law, in order to satisfy the condition that the signs at issue must be identical or similar, laid down by Article 8(5) of Regulation No 207/2009, it is not necessary to prove that there exists, on the part of the relevant section of the public, a likelihood of confusion between the earlier mark with an alleged reputation and the mark applied for. It is sufficient for the degree of similarity between those marks to have the effect that the relevant section of the public establishes a link between them (see, to that effect, judgment of 9 March 2012, *ELLA VALLEY VINEYARDS*, T-32/10, EU:T:2012:118, paragraph 37).
- 24 The assessment of the visual, phonetic and conceptual similarity of the signs at issue must be based on the overall impression generated by the signs, bearing in mind, in particular, their distinctive and dominant elements. Moreover, it is apparent from the case-law that two marks are similar where, from the point of view of the relevant public, they are at least partially identical as regards one or more relevant aspects (see, to that effect, judgment of 27 October 2016, *Spa Monopole v EUIPO – YTL Hotels & Properties (SPA VILLAGE)*, T-625/15, not published, EU:T:2016:631, paragraph 35 and the case-law cited).
- 25 As a preliminary point, it should be noted that, as stated in paragraph 20 of the contested decision, and as EUIPO and the intervener submit, when assessing whether they are identical or similar, the signs must be compared in the form in which they are protected, that is to say, as they were registered or as they appear in the application for registration. The actual or potential use of registered marks in another form is irrelevant when comparing the signs (see judgment of 20 April 2018, *Mitrakos v EUIPO – Belasco Baquedano (YAMAS)*, T-15/17, not published, EU:T:2018:198, paragraph 34 and the case-law cited).
- 26 The orientation of signs, as set out in the application for registration, may have an impact on the scope of their protection and, consequently, contrary to what the applicant claims, in order to avoid any uncertainty

and doubt, the comparison between the signs can be carried out only on the basis of the shapes and orientations in which those signs are registered or applied for.

27 The case-law relied on by the applicant cannot call such a finding into question.

28 In the judgment of 19 September 2018, *Volkswagen v EUIPO – Paalupaikka (MAIN AUTO WHEELS)* (T-623/16, not published, EU:T:2018:561), upheld by the Court of Justice on appeal (order of 21 May 2019, *Volkswagen v EUIPO*, C-744/18 P, not published, EU:C:2019:437, paragraphs 9 and 10), the General Court expressly stated that it was necessary to compare the mark applied for with the earlier mark as they were registered (judgment of 19 September 2018, *MAIN AUTO WHEELS*, T-623/16, not published, EU:T:2018:561, paragraph 45), and it was only for the sake of completeness that it took account of the representation of the mark applied for positioned back-to-front on the goods that it covered.

29 In the judgment of 29 November 2018, *Louis Vuitton Malletier v EUIPO – Bee-Fee Group (LV POWER ENERGY DRINK)* (T-372/17, not published, EU:T:2018:851), the Court merely noted that there was no need to give undue importance to the respective sizes of the elements of marks which are not registered in a given size, but which will vary according to the object to which they are affixed (judgment of 29 November 2018, *LV POWER ENERGY DRINK*, T-372/17, not published, EU:T:2018:851, paragraph 79), without changing the orientation of any of those marks when comparing them.

30 As regards the judgments of 6 March 2014, *Pi-Design and Others v Yoshida Metal Industry* (C-337/12 P to C-340/12 P, not published, EU:C:2014:129), and of 10 November 2016, *Simba Toys v EUIPO* (C-30/15 P, EU:C:2016:849), the Court of Justice indeed held that elements relevant to identifying appropriately the essential characteristics of a sign and elements other than the representation as applied for or registered may be taken into account if those elements correspond to the reality of use of the sign on the market. However, that case-law falls within the scope of the assessment of legal criteria other than the one at issue here, in so far as they concern absolute grounds for refusal or revocation, and is therefore not relevant in the context of the examination of the present relative ground for refusal.

31 Similarly, the judgment of 18 July 2017, *Chanel v EUIPO – Jing Zhou and Golden Rose 999 (Ornament)* (T-57/16, EU:T:2017:517), in the field of Community designs, proceeds from the application of criteria other than those applicable for the purposes of the comparison of signs under Article 8(5) of Regulation No 207/2009. In any event, although the rotation of designs had been taken into account by the General Court, it was nevertheless a surplus examination criterion.

32 Thus, for the reasons set out in paragraphs 24 to 30 above, it is necessary to compare the allegedly reputed mark in the form in which it was registered and the mark applied for in the form in which it was applied for, irrespective of any possible rotation in their use on the market.

33 In the present case, as regards the visual comparison of the marks at issue, it should be noted that the mark applied for is a figurative sign consisting of a circle containing two curves resembling the image of two black letters ‘u’ positioned vertically and as an inverted mirror image, which cross and intersect to form a central element constituting a horizontal ellipse. The allegedly reputed mark is also a figurative sign consisting of a circle containing two curves resembling the image of two black letters ‘c’ positioned horizontally and as an inverted mirror image, which cross and intersect to form a central element constituting a vertical ellipse.

34 The marks at issue thus share certain characteristics, namely a black circle, two interlaced curves, which the circle surrounds, also black, intersecting in an inverted mirror image, and a central ellipse, resulting from the intersection of the curves.

35 The visual differences between the marks at issue result, first, from the more rounded shape of the curves, resembling the image of two letters ‘c’ in the allegedly reputed mark, as compared with the image of the letter ‘h’ in the mark applied for, second, from the different stylisation of those curves and their arrangement, horizontally in the allegedly reputed mark and vertically in the mark applied for, third, the

orientation of the central ellipse, resulting from the intersection of those curves, vertical in the allegedly reputed mark and horizontal in the mark applied for and, fourth, the greater thickness of the line of those curves in the allegedly reputed mark as compared with the line of the curves in the mark applied for, as well as the line forming the circle of the mark applied for as compared with that of the allegedly reputed mark.

36 Furthermore, although the intersection of the interlaced curves of the mark applied for is visible, in that the line is interrupted in the places where those curves cross, the same is not true of the allegedly reputed mark. It can also be noted that the distance between the line forming the circle and the ends of the curves in each of the marks at issue, namely the points where those curves begin and end, differs.

37 Thus, it should be noted that, assessed globally, the marks at issue are visually different, despite the presence in each of them of two interlaced curves within a black circle, the latter being, moreover, a common geometric element (see, to that effect, judgments of 12 September 2007, *Cain Cellars v OHIM (Device of a pentagon)*, T-304/05, not published, EU:T:2007:271, paragraph 22 and the case-law cited, and of 20 March 2019, *Grammer v EUIPO (Representation of a shape)*, T-762/17, not published, EU:T:2019:171, paragraph 19).

38 As regards the phonetic comparison of the marks at issue, the parties do not dispute the Board of Appeal's finding that an analysis of any similarity cannot be carried out since those marks will not be pronounced.

39 As regards the conceptual similarity of the marks at issue, it should be noted that the mark applied for and the allegedly reputed mark are composed of a circle containing an image referring to stylised letters. The Board of Appeal found that the mere fact that they have the geometric shape of a circle cannot make them conceptually similar.

40 It should be noted that although the initials of the founder of the applicant company should be detected in the image referring to the stylised letters of the allegedly reputed mark, it is the stylised letter 'h' or the two interlaced letters 'u' that could be perceived in the image referring to a stylised letter of the mark applied for, so that the marks at issue are conceptually different.

41 In view of the considerations set out in paragraphs 31 to 39 above, it must be held that the mark applied for and the allegedly reputed mark are different.

42 It follows that, as noted by the Board of Appeal, the first of the conditions laid down in Article 8(5) of Regulation No 207/2009 and referred to in paragraph 17 above is not satisfied, so that the first plea in law must be rejected.

***The second plea, alleging infringement of Article 8(1)(b) of Regulation No 207/2009***

43 The applicant submits, in essence, that registration of the mark applied for in respect of the goods referred to in paragraph 3 above should have been refused on the basis of Article 8(1)(b) of Regulation No 207/2009.

44 According to Article 8(1)(b) of Regulation No 207/2009, upon opposition by the proprietor of an earlier trade mark, the trade mark applied for must not be registered if because of its identity with, or similarity to, an earlier trade mark and the identity or similarity of the goods or services covered by the trade marks, there exists a likelihood of confusion on the part of the public in the territory in which the earlier trade mark is protected. The likelihood of confusion includes the likelihood of association with the earlier trade mark.

45 According to settled case-law, the risk that the public may believe that the goods or services in question come from the same undertaking or from economically linked undertakings constitutes a likelihood of confusion. According to the same line of case-law, the likelihood of confusion must be assessed globally, according to the relevant public's perception of the signs and goods or services in question and taking into

account all factors relevant to the circumstances of the case, in particular the interdependence between the similarity of the signs and that of the goods or services covered (see judgment of 9 July 2003, *Laboratorios RTB v OHIM – Giorgio Beverly Hills (GIORGIO BEVERLY HILLS)*, T-162/01, EU:T:2003:199, paragraphs 30 to 33 and the case-law cited).

46 In the present case, the Board of Appeal found that the mark applied for and the allegedly reputed mark were not similar. It found that the first consisted of two interlocking u-shaped elements in a vertical position surrounded by the basic geometrical shape of a circle. The second was also purely figurative and consisted of two bold, black interrupted circles, placed mirror-like and overlapping in a horizontal position. According to the Board of Appeal, visually, the marks at issue produced a very different overall impression, in so far as they had a different structure and were composed of different elements. The mere fact that each of the marks is composed of two connected elements does not make them similar. Phonetically, in so far as the marks at issue will not be pronounced, it was impossible, according to the Board of Appeal, to make a comparison. Since the marks had no concept in common they were not similar from a conceptual point of view. The Board of Appeal concluded that, overall, the marks at issue were dissimilar for the purposes of applying Article 8(1)(b) of Regulation No 207/2009 and that there was no need to further examine the other conditions for the application of that provision.

47 According to the applicant, in the first place, the mark applied for and the earlier mark are similar to an average degree, or even to an average to low degree, when they are viewed in the orientation in which they were applied for, and to at least an average degree when the mark applied for is rotated by 90 degrees. The applicant refers, in the latter regard, to the observations set out in paragraph 19 above. In the second place, the applicant submits that, in the absence of any possible phonetic and conceptual comparisons, there are visual similarities between the mark applied for and the earlier mark which lead to the conclusion that the marks at issue are similar overall. To that end, the applicant disputes the Board of Appeal's findings that the mark applied for and the earlier mark produce a very different overall impression.

48 EUIPO and the intervener dispute the applicant's arguments.

49 As a preliminary point, it should be noted that, as stated in paragraph 20 of the contested decision, and as EUIPO and the intervener submit, and for the reasons set out in paragraphs 24 to 30 above, it is necessary to compare the earlier mark in the form in which it was registered and the mark applied for in the form in which it was applied for, irrespective of any possible rotation in their use on the market.

50 As regards the visual comparison of the marks at issue, the earlier mark is a figurative sign consisting of two curves resembling the image of two black letters 'c' positioned horizontally and as an inverted mirror image, which cross and intersect to form a central element constituting a vertical ellipse.

51 The circle, present exclusively in the mark applied for, surrounds the curves contained in its centre and gives that mark a specific arrangement and proportions which are not present in the earlier mark. Even though the marks at issue share characteristics, namely two black interlaced curves intersecting in an inverted mirror image, a central ellipse resulting from the intersection of the curves, the absence of a circle in the earlier mark and a consequent arrangement rules out any visual similarity.

52 As regards the phonetic and conceptual comparison of the marks at issue, the considerations set out in paragraphs 37 and 38 above are also intended to apply in that context.

53 It follows that the Board of Appeal was correct in finding that the marks were dissimilar overall and that, accordingly, the opposition had to be rejected on the basis of Article 8(1)(b) of Regulation No 207/2009. In so far as the signs at issue are not similar, the other relevant factors for the global assessment of the likelihood of confusion cannot under any circumstances offset and make up for that dissimilarity and therefore there is no need to examine them (judgments of 12 October 2004, *Vedial v OHIM*, C-106/03 P, EU:C:2004:611, paragraph 54; of 11 December 2008, *Gateway v OHIM*, C-57/08 P, not published, EU:C:2008:718, paragraphs 56 and 57; and of 24 March 2011, *Ferrero v OHIM*, C-552/09 P, EU:C:2011:177, paragraphs 65, 66 and 68).

54 Consequently, the second plea in law must be rejected and, accordingly, the action must be dismissed in its entirety.

### Costs

55 Under Article 134(1) of the Rules of Procedure of the General Court, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings.

56 Since the applicant has been unsuccessful, it must be ordered to pay the costs, in accordance with the forms of order sought by EUIPO and the intervener.

57 In addition, in so far as the intervener must be regarded as having applied for the applicant to be ordered to pay the costs incurred in the course of the proceedings before the Opposition Division and the Board of Appeal, it should be borne in mind that, under Article 190(2) of the Rules of Procedure, costs necessarily incurred by the parties for the purposes of the proceedings before the Board of Appeal are to be regarded as recoverable costs. However, that does not apply to costs incurred for the purposes of the proceedings before the Opposition Division. Accordingly, the intervener's claim in respect of the costs relating to the proceedings before the Opposition Division, which do not constitute recoverable costs, is in any event inadmissible. As regards the intervener's claim for costs of the proceedings before the Board of Appeal, it is sufficient to note that, since the present judgment dismisses the action brought against the contested decision, it is the operative part of the contested decision which continues to determine the costs in question (see, to that effect, judgment of 28 February 2019, *Lotte v EUIPO – Générale Biscuit-Glico France (PEPERO original)*, T-459/18, not published, EU:T:2019:119, paragraph 194).

On those grounds,

### THE GENERAL COURT (Fifth Chamber)

hereby:

1. **Dismisses the action;**
2. **Orders Chanel to pay the costs.**

Spielmann

Öberg

Mastroianni

Delivered in open court in Luxembourg on 21 April 2021.

E. Coulon

S. Papasavvas

Registrar

President

\* Language of the case: English.