



Benelux Office for  
**Intellectual  
Property**

**BENELUX OFFICE FOR INTELLECTUAL PROPERTY**  
**OPPOSITION DECISION**  
**N° 2015594**  
**of 25 March 2022**

**Opponent:** **Warner Bros. Entertainment Inc. Delaware corporation**  
4000 Warner Blvd.  
91522 Burbank California  
United States of America

**Representative:** **Leeway B.V.**  
James Wattstraat 100  
1097 DM Amsterdam  
Netherlands

**Invoked right:** **European trademark registration 3474889**

GOLDEN TICKET

*against*

**Defendant:** **SOREMARTEC SA**  
16 Rue de Trèves  
2633 Senningerberg  
Luxembourg

**Representative:** **Pascal Becker**  
31 Rue d'Eich  
L-1461 Luxembourg  
Luxembourg

**Contested trademark:** **Benelux application 1399784**

GOLDEN TICKET

## **I. FACTS AND PROCEEDINGS**

### **A. Facts**

1. On 26 July 2019 the defendant filed a Benelux trademark application for the wordmark "GOLDEN TICKET" for goods in class 30. This application was processed under number 1399784 and was published on 20 August 2019.
2. On 19 October 2019 the opponent filed an opposition against the registration of the application. The opposition is based on the European registration 3474889 of the wordmark "GOLDEN TICKET", filed on 30 October 2003 and registered on 27 September 2005 for goods in classes 16, 25 and 28.
3. According to the register the opponent is the actual holder of the trademark invoked.
4. The opposition is directed against all of the goods covered by the contested application and is based on all of the goods covered by the trademark invoked.
5. The grounds for opposition are those laid down in article 2.14, 2 (a) of the Benelux Convention on Intellectual Property (hereinafter: "BCIP").
6. The language of the proceedings is English.

### **B. Course of the proceedings**

7. The opposition is admissible and was notified by the Benelux Office for Intellectual Property (hereinafter: "the Office" or "BOIP") to the parties on 22 October 2019. Upon a mutual request of the parties communicated on 5 November 2019 the proceedings were suspended until 23 April 2020. During the administrative phase of the proceedings both parties filed arguments and the opponent filed documents to prove use of his trademark. The course of the proceedings meets the requirements as stated in the BCIP and the Implementing Regulations (hereinafter "IR"). The administrative phase was completed on 18 March 2021.

## **II. ARGUMENTS**

8. The opponent filed an opposition at the Office under article 2.14, 2 (a) BCIP, in accordance with the provisions of articles, 2.2ter, 3 (a) BCIP: infringement of a trademark with a reputation and 2.2ter, 1 (b) BCIP: the likelihood of confusion based on the identity or similarity of trademark and sign and the identity or similarity of the goods or services concerned.

### **A. Opponent's arguments**

9. The opponent starts his arguments with a presentation of the opponent's company, the background of the invoked trademark as it refers to a movie and notes the trademark licensing practice of the opponent.
10. Regarding the likelihood of confusion, the opponent notes in the first place that the signs concerned are identical.
11. As regards the comparison of the goods covered by the trademarks, the opponent notes that the invoked trademark is used for merchandise purposes related to the movies which includes foods and

beverages covered by the contested trademark. In addition, since the "Golden Ticket" reference in the Willy Wonka Films relates to chocolate and sweets, the consumer would, according to the opponent, undoubtedly assume that these products would be marketed or licensed by the opponent. Finally, the opponent notes that the goods covered by the trademarks are part of the same supply chain, target the same public, have the same distribution channels and are technically complementary and may originate from the same undertaking. All of this leads the opponent to conclude that the goods covered by the trademarks are similar to an average degree.

12. The opponent argues that the likelihood of confusion is increased due to the high level of distinctiveness the invoked trademark has obtained as a result of its reputation elaborated below.

13. Furthermore, the opponent argues that the invoked trademark is largely addressed at children for which the likelihood of confusion between the trademarks concerned is higher.

14. Concerning the infringement of a trademark with a reputation, the opponent first notes that the invoked trademark has a reputation in the European union and refers to evidence submitted as to the success enjoyed by the Willy Wonka films. The opponent argues that the "GOLDEN TICKET" trademark plays an important part in the plot of said movies and appears several times throughout the films. Further evidence aimed to show the reputation of the "GOLDEN TICKET" trademark was submitted by the opponent.

15. Considering the reputation of the invoked trademark and the identity of the signs, the opponent considers that the conditions for infringement of a trademark with a reputation are fulfilled in that the consumers would create a link between the trademarks concerned due to the strong association existing between sweets and the Willy Wonka movies. To that end, the opponent considers that the contested trademark is taking unfair advantage without due cause by free-riding on the distinctive character of the invoked trademark, causing as a detrimental effect the dilution of the distinctive character of the latter trademark.

16. As a result, the opponent considers that there exists a likelihood of confusion and that the defendant is taking undue advantage of the reputation and distinctiveness of the trademark invoked. Thus, he asks the Office to uphold the opposition and refuse the registration of the contested trademark application.

17. Following the request by the defendant, the opponent submitted proof of use.

## **B. Defendant's arguments**

18. In the first place the defendant asks the opponent to provide proof of use for his trademark.

19. The defendant notes that the evidence submitted at a prior date by the opponent to prove the well-known character of its trademark cannot be used at this stage to prove the use of his trademark.

20. As regards the evidence submitted, the defendant notes that most of it does not refer to the earlier trademark "GOLDEN TICKET". Also, the defendant argues that there is no information provided in the evidence that any goods were sold or available for sale in the European Union during the relevant period. Most of the evidence provided falls outside the relevant period according to the defendant and he notes that the commercial volume shown by the evidence is insufficient to show genuine use for the goods covered within the European Union.

21. As a result, the defendant finds that the opponent failed to prove genuine use of the invoked trademark for the goods covered.

22. In his arguments the defendant starts with a short introduction of his company and points out that the defendant has recently acquired a large confectionery company which held numerous trademarks among which several word marks for "GOLDEN TICKET" in different countries. As a result of the acquisition, the defendant is now the owner of these trademarks.

23. The goods concerned being addressed at the general public and every day consumer goods, the defendant notes that the level of attention of the relevant public is to be deemed normal.

24. The defendant does not contest the identity of the signs as argued by the opponent.

25. The defendant further notes that the opponent, in his comparison of the goods covered by the trademarks concerned uses a list that is different from what is covered by the invoked trademark in the register.

26. Furthermore, comparing the goods covered by the trademark applications concerned, the defendant argues that these are dissimilar. The defendant notes that the opponent did not compare the goods concerned in his arguments and merely asserted complementarity and thus similarity of these without submitting any evidence to support that assessment. Contrary to what is argued by the opponent, the defendant underlines that the invoked trademark is not registered for "merchandise products".

27. Thus, as a result of the dissimilarity of the goods concerned, the defendant concludes that there cannot be any likelihood of confusion between the trademarks, even if the signs were to be found identical.

28. In addition, since there is no similarity between the goods covered by the trademarks, even if the opponent were to demonstrate a higher distinctive character, the defendant notes that there would still not be any likelihood of confusion. However, the defendant argues that the opponent did not sufficiently prove the reputation of his invoked trademark, nor any higher distinctiveness per se and that the distinctiveness of the earlier trademark must be considered normal.

29. Concerning the ground of infringement of a prior mark with a reputation invoked by the opponent, the defendant finds the evidence submitted to that end irrelevant and in any case also insufficient to prove that the trademark invoked would have a reputation in the European Union. He notes that part of the evidence provided is irrelevant due to its internal origin to the opponent's company or it originating from internet sources with little probative value. Furthermore a substantial part of the evidence submitted by the opponent fails, in the eyes of the defendant, to mention the name "GOLDEN TICKET" or, even if it does, does not show use as a trademark to designate goods originating from a certain undertaking, but merely as a fictional element of the different Willy Wonka movies. As regards the territorial scope of the evidence provided, the defendant notes that for part of the evidence it is impossible to establish to what geographical territory it relates, while another part of the evidence relates to a territory outside of the geographical scope of the invoked right. The defendant also notes that part of the evidence provided either does not contain any indication of time or succeeds the filing date of the contested trademark. As regards the goods displaying the invoked sign, the defendant notes that part of these are not covered by the invoked trademark application's list of goods.

30. As regards the link between the signs, the defendant notes that the opponent did not substantiate or provide any proof for his affirmation that the consumer would create a link between the goods marketed under both trademarks, especially as the goods of the earlier right do not relate to confectionery in any way.

31. In the same vein, the defendant contests the opponent's assertion that there is a risk of injury to the invoked trademark, first because the opponent, in the eyes of the defendant, did not substantiate this

claim and second because the opponent failed to prove that there would be a link created between the trademarks in the eyes of the consumers. The defendant notes that the risk of injury or a detrimental effect to the invoked trademark cannot be assumed and needs to be substantiated which, according to the defendant, the opponent has failed to do.

32. In that regard and considering the arguments above, the defendant finds that the proof of use submitted is insufficient to prove a genuine use of the invoked trademark for the relevant period and in the relevant territory. Nonetheless, should the Office decide that use was sufficiently proven, the defendant still finds that there exists no risk of confusion for consumers confronted with these trademarks due to there being no similarity between the goods, furthermore the opponent failed to substantiate the claim for an infringement by the contested trademark application of his invoked and allegedly reputed trademark. Thus, he asks the Office to reject the opposition and to register the contested trademark.

### **III. DECISION**

#### **A.1 Proof of use**

33. In accordance with Article 2.16bis BCIP, the opponent, at the request of the defendant, shall furnish proof that the trademark invoked has been put to genuine use as provided for in Article 2.23bis BCIP or that proper reasons for non-use existed. The evidence must show genuine use in a period of five years prior to the filing date of the trademark against which the opposition is lodged.

34. The filing date of the contested trademark is 26 July 2019. Therefore, the opponent was required to show use of the invoked trademark during the period from 26 July 2014 to 26 of July 2019 ('the relevant period'). Given the fact that the trademark invoked was registered more than five years prior to the filing date of the contested trademark, the defendant's request that proof of use is submitted is legitimate.

#### *In general*

35. In accordance with the decision of the European Court of Justice (hereinafter referred to as "ECJ") of 11 March 2003 (ECJ, Ansul, C-40/01, ECLI:EU:C:2003:145) there is genuine use of a trademark where the mark is used in accordance with its essential function, which is to guarantee the identity of the origin of the goods or services for which it is registered. This is done in order to create or preserve an outlet for those goods or services. Genuine use does not include token use for the sole purpose of preserving the rights conferred by the mark. In that regard, the condition relating to genuine use of the trademark requires that the mark, as protected in the relevant territory, be used publicly and outwardly (see also General Court of the European Union (hereinafter referred to as "EGC"), Silk Cocoon, T-174/01, 12 March 2003, ECLI:EU:T:2003:68; EGC, Vitafruit, T-203/02, 8 July 2004, ECLI:EU:T:2004:225; EGC, Charlott, T-169/06, 8 November 2007, ECLI:EU:T:2007:337).

36. The EGC held that use of the earlier mark need not always be quantitatively significant for it to be deemed genuine (EGC, Hipoviton, T-334/01, 8 July 2004, ECLI:EU:T:2004:223; EGC, Sonia-Sonia Rykiel, T 131/06, 30 April 2008, ECLI:EU:T:2008:135). The purpose of the notion of genuine use is not to assess commercial success or to review the economic strategy of an undertaking, nor is it intended to restrict trademark protection to the cases where large-scale commercial use has been made of the mark (EGC, Vitafruit, already referred to above).

37. In addition the EGC held that genuine use of a trademark cannot be proven by means of probabilities or suppositions, but must be demonstrated by solid and objective evidence of effective and

sufficient use of the trademark on the market concerned (see EGC, Hiwatt, T-39/01, 12 December 2002, ECLI:EU:T:2002:316; EGC, Vitakraft, T-356/02, 6 October 2004, ECLI:EU:T:2004:292 and EGC, Sonia-Sonia Rykiel, already referred to above).

38. The trademark invoked is a trademark of the European union, hence the obligation to use the trademark is administered by article 15 of Regulation (EU) No 2015/2424 of the European Parliament and of the Council of 16 December 2015. This article, entitled "Use of European Union trademarks", stipulates: *"If, within a period of five years following registration, the proprietor has not put the European Union trade mark to genuine use in the Union in connection with the goods or services in respect of which it is registered, or if such use has been suspended during an uninterrupted period of five years, the European Union trade mark shall be subject to the sanctions provided for in this Regulation, unless there are proper reasons for nonuse."*

39. In its decision of 19 December 2012 (case C-149/11, Onel, ECLI:EU:C:2012:816), the ECJ explained this provision. The ECJ considers regarding the concept "in the Community" that there is a difference between the territorial extent of the protection conferred on national trademarks and the extent of the protection conferred on EU trademarks. From a territorial point of view, an EU trademark enjoys a more extensive scope of protection than a national trademark. As a consequence, it may reasonably be expected that an EU trademark can be used in a larger area, except for the (exceptional) case where the market for the goods and services at issue has been territorially restricted. Abstraction should be made here of the boundaries of the territory of the Member States. The ECJ concludes: *"A Community trade mark is put to 'genuine use' within the meaning of Article 15(1) of Regulation No 207/2009 when it is used in accordance with its essential function and for the purpose of maintaining or creating market share within the Community for the goods or services covered by it. It is for the referring court to assess whether the conditions are met in the main proceedings, taking account of all the relevant facts and circumstances, including the characteristics of the market concerned, the nature of the goods or services protected by the trade mark and the territorial extent and the scale of the use as well as its frequency and regularity."*

40. The threshold for genuine use of an EU trademark is therefore in principle higher than that for genuine use of a national (or Benelux) trademark. It should be demonstrated that the trademark is used for the purpose of maintaining or creating market share within the EU and taking into account all relevant facts and circumstances.

#### *Analysis of the proof of use*

41. Contrary to what is argued by the defendant, the opponent may, as he did, refer to documents previously submitted alongside his arguments for the assessment of genuine use even if these had initially been submitted as evidence for a different purpose (paragraph 19)<sup>1</sup>.

42. The opponent submitted the following exhibits to demonstrate the genuine use of the invoked trademark in the European Union:

1. An article published on Wikipedia about the movie "Willy Wonka & the Chocolate Factory" dating from, at the earliest, 30 July 2020.
2. An article published on Wikipedia about the movie "Charlie and the Chocolate Factory" dating from, at the earliest, 14 June 2020.

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<sup>1</sup> See to that end BOIP *Guidelines for opposition proceedings* (section 17.6.3, page 69) (link: <https://www.boip.int/en/ip-professionals/regulations-policy/opposition/guidelines> )

3. An article published on Wikipedia about the movie "Tom and Jerry: Willy Wonka and the Chocolate Factory" dating from, at the earliest, 3 August 2020.
4. Online register extract of the trademark invoked.
5. Print screen from the webpage IMDb.com concerning the movie "Sjokie en de chocoladefabriek" from 1971, the source is not dated.
6. Print screen from the webpage IMDb.com concerning the movie "Sjokie en de chocoladefabriek" from 2005, the source is not dated.
7. A declaration from Megan L. Martin, VP of the opponent's company, on the use made of the invoked trademark and commercial extent of the success of the movie "Charlie and the Chocolate Factory".
8. Copies of posters for the movie "Charlie and the Chocolate Factory".
9. An online article published on "warnerBros.com" in July 2005 announcing the winner of the "Charlie and the Chocolate Factory" Golden Ticket Sweepstakes.
10. A screenshot from the webpage "boxofficemojo.com" dated June 2020 showing the commercial success of the release of the movie "Charlie and the Chocolate Factory".
11. Various screenshots of online articles on the success of the Willy Wonka movies.
12. Screenshots dated June 2020 showing the offering of goods in relation to the Musical "Charlie and the Chocolate Factory". The online offering for display contains Ticket Holders, t-shirts and mugs referring to "The Golden Ticket".
13. Articles on slot machine games and other forms of videogames /casino games named "Willy Wonka World of Wonka", "Willy Wonka Dream Factory", "Willy Wonka Pure Imagination", "Willy Wonka - Wonkavator", "Willy Wonka - Everlasting Gobstopper" referring to a Golden Ticket.
14. Articles dating from a period between May 2017 and May 2019 on lottery games called "Willy Wonka Golden Ticket" "Wonka Golden Ticket" or "Golden Ticket" with depictions of the products containing the reference "GOLDEN TICKET".
15. Catalogue displays and pictures showing a coin pusher game entitled "Willy Wonka" with product descriptions referring to a "Golden Ticket".
16. Screenshots dated July 2020 from the application store Googleplay which show games applications offered by the name "Willy Wonka Slots Free Casino", "Wonka's World of Candy-Match 3" and "Willy Wonka Slots Vegas Casino".
17. Excerpts showing different products with the reference "Golden Ticket", namely pillow cases, keychains, bandanas, a blanket, pins, pinball machines, playing cards, plush toys, prints, t-shirts, coasters, cupcake decorations, banners, make-up bags, magnets, bottle openers, mugs.
18. A screenshot, not dated, from the website "cafepress.com" showing a t-shirt offered for sale under the name "GOLDEN TICKET".
19. 3 online articles from journals from the United Kingdom, dating from a period between July 2012 and July 2019 concerning the auction of original Golden Tickets from the movie sets.
20. An online article published by the Irish Times in August 2005 entitled "First Wonka ticket found in Galway" concerning a marketing campaign using the "golden ticket" and a reference to the Willy Wonka movies.
21. Online articles from journals from the United Kingdom, dating from a period between December 2011 and March 2014 referring to the Golden Ticket in relation to the Willy Wonka movies.
22. Screenshots dated July 2020 showing the "Willy Wonka & The Chocolate Factory" page on the website Facebook.com.
23. Screenshots dated July 2020 from the opponent's webpage, showing the Willy Wonka movies available for sale.
24. An overview of the different Willy Wonka movies available for sale in different countries with publication dates.

25. Screenshots dated June 2020 showing different Willy Wonka movies available individually or within package deals on the webpages Amazon.de, Amazon.fr, Amazon.it and Bol.com.
26. An overview showing licensing information related to the Wonka Films during the period of 2014 to 2019 for the European Union.
27. Screenshots taken between June and August 2020 showing the Willy Wonka movies offered for viewing by different online movie streaming providers.
28. Article and product description of a "WILLY WONKA & THE CHOCOLATE FACTORY 40<sup>th</sup> ANNIVERSARY ULTIMATE COLLECTOR'S EDITION" bundled product, including lottery participation named "Golden Ticket Instant Win Game".
29. Pictures of a marketing campaign involving a reference to "The Golden Ticket" in relation to the Willy Wonka movies.
30. Screenshots on the webpages pro.imdb.com and playstation.com showing a "Charlie and the Chocolate Factory" videogame.
31. An overview of different trademarks containing the words "GOLDEN TICKET" held by the opponent.
32. Screenshots dating from 28 December 2020 on the webpage ROALDDAHL.com showing several items offered for sale, namely keychains, sweatshirts, pillows, t-shirts, chocolate, games, gift vouchers, mugs, trays, teapots and plates with the mention "GOLDEN TICKET" on them.
33. Screenshots dating from 29 December 2020 on the webpage cafepress.com showing several items offered for sale, namely ornaments, prints, blankets, keychains, t-shirts, magnets, pyjamas, stickers, mugs, bibs, baby clothes and pet apparel with the mention "GOLDEN TICKET" on them.
34. Screenshots from an online article published by Hellomagazine.com on 16 February 2018 describing a children's costume offered for sale referring to one of the characters from the Willy Wonka movies.
35. Screenshot dating from 29 December 2020 on the webpage latestdeals.co.uk showing an Oompa Loompa children's costume offered for sale.
36. Non dated Screenshot from the webpage amazon.com showing a boardgame referencing the Willy Wonka movies and called "CANDYLAND" being offered for sale and available for delivery in various different countries throughout the European Union.
37. Instruction manual for the boardgame "CANDYLAND", dating from 21 August 2018, referring to the Willy Wonka movies and mentioning the "WONKA GOLDEN TICKET".
38. Screenshots from an online article published on pinballnews.com on 13 April 2019 describing pinball machines referring to the Willy Wonka movies.
39. Screenshots dated 28 December 2020 from an online article published on thisweekinpinball.com containing an in depth product description for pinball machines referring to the Willy Wonka movies and mentioning the Golden Ticket concept as one of the game elements.
40. A catalogue dating from 29 July 2020 containing a product description of coin pusher game machines themed around the Willy Wonka movies and mentioning the Golden Ticket concept as one of the game elements.
41. A product catalogue from December 2017 mentioning among others Coin pusher game machines themed around the Willy Wonka movies and mentioning the Golden Ticket concept as one of the game elements.
42. Screenshots dating from a period from 7 August 2017 to 7 August 2020 from the Website Youtube.com showing Coin pusher game machines themed around the Willy Wonka movies with a reference to the Golden Ticket concept as one of the game elements.
43. An overview of products containing the mention "GOLDEN TICKET" offered for sale on the website AMAZON.com as well as screenshots showing these products namely keychains,



stickers, flasks, bottle openers, magnets, coasters, cake decoration and pins offered on the website and available for shipping in different European member states.

44. A catalogue serving as style and packaging guide for products related to the Willy Wonka Films.

43. In general, it should first be noted that the fact that certain documents are undated or originate from outside the relevant period does not necessarily mean that they should be ignored. Even if a document is dated after a certain date, it may be possible to draw conclusions from it about a situation that occurred before that date (CJEU, *Aire Limpio*, C-488/06, 17 July 2008, ECLI:EU:C:2008:420; BOIP Opposition Decision, Y-TAG, 2000904, 23 October 2008). Furthermore, these documents are likely to support the other evidence relied upon (CJEU, *Vitafruit*, 8 July 2004, ECLI:EU:T:2004:225; BOIP opposition decision, *HOLLANDER*, 2000980, 30 June 2008). For example, although certain screenshots and press articles date from before or after the relevant period, they may nevertheless allow conclusions to be drawn about the situation prevailing during that period (see, to that effect, Order of the Court of Justice of 5 October 2004, *Alcon v OHIM*, C-192/03 P, ECLI:EU:C:2004:587). Such circumstances may confirm or contribute to a better assessment of the extent of use of the mark in question during the relevant period (see, Order of the CJEU, *La Mer Technology*, C-259/02, 27 January 2004, ECLI:EU:C:2004:50).

44. As previously mentioned (paragraph 35), there is genuine use of a trademark where the mark is used in accordance with its essential function, which is to guarantee the identity of the origin of the goods or services for which it is registered. The evidence provided by the opponent shows that the Willy Wonka movies, released by the opponent and based on a novel from Roald Dahl, enjoy large international commercial success and notoriety (exhibits 1, 2, 3, 5, 6, 10, 11, 19, 23, 24). Indeed, the word element constituting the invoked trademark "GOLDEN TICKET" refers to an element of the plot of these movies. Reminiscent of its role in the movies, the use made of the wordmark "GOLDEN TICKET" is often in line with the concept of the movies, evoking that part of the story, either indirectly or directly (see for example exhibits 19, 20 or 21). As a mere reference to the movies, this evidence does not show that the use made of the trademark is of such nature that it guarantees the identity of the origin of the goods or services for which it is registered, and thus constitutes genuine use of a trademark.

45. Furthermore, the Office observes that among the evidence submitted there is no information as to the volume of business carried out in connection with the goods covered by the trademark invoked. Even when considering the declaration issued by the opponent (exhibit 7, page 4) the only commercial numbers provided concern the entirety of the merchandising licensing revenues of trademarks linked to the Willy Wonka movies. Such data provides no indication as to the commercial exploitation of the invoked trademark in the relevant territory. In addition, considering that these numbers are provided by the opponent himself and not corroborated by any third party, its probative value has to be considered to be lower. While the opponent does provide evidence of an offering for sale of goods (exhibits 12, 13, 14, 15, 16, 17, 18, 28, 33, 34, 35, 36, 38, 39, 40, 41, 42 and 43) of which many contain the mention "GOLDEN TICKET", there is no evidence of any end consumer transactions for the goods at issue during the relevant period and in the relevant territory. No invoices or turn-over figures were provided by the opponent. Consequently, the evidence submitted is ultimately not capable of demonstrating, on its own and without recourse to probabilities and presumptions (see *EGC Vogue*, T-382/08, 18 January 2011, ECLI:EU:T:2011:9 and the *Hiwatt* and *Vitakraft* judgments already cited), genuine use of the marks concerned for the goods in question in the relevant territory.

## **B. Conclusion**

46. It follows from the foregoing that the evidence the opponent filed with the Office, does not meet the requisite legal standard to prove genuine use of the earlier trademark in the European union during the

relevant period. The opponent fails to file proof that substantiates the place, time or extent of the use, as required by article 1.25 (2) IR. As a result of the lack of sufficient proof of use, there is no need for the Office to examine the existence of a likelihood of confusion or the infringement of a trademark with a reputation.

#### **IV. DECISION**

47. The opposition with number 2015594 is not justified.

48. The Benelux trademark application with number 1399784 will be registered in the Benelux.

49. The opponent shall pay the defendant 1,045 euros in accordance with article 2.16, 5 BCIP in conjunction with rule 1.28, 3 IR, as the opposition is not justified. This decision constitutes an enforceable order pursuant to article 2.16, 5 BCIP.

The Hague, 25 March 2022



*François Châtellier*  
(rapporteur)

*Pieter Veeze*

*Eline Schiebroek*

Administrative officer: Gerda Veltman