



STUDIO TORTA

Trade mark infringement
&
unfair competition

GUCCI v. GUESS in ITALY

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ITALY – FIRST INSTANCE

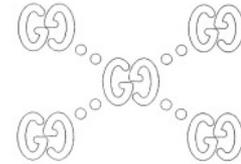
- 05/05/2009 – Gucci sued Guess before the Court of Milan for trademark infringement and unfair competition
- 02/05/2013 – Decision 6095/2013 of the Court of Milan rejected the action of Gucci and declared the nullity of some Gucci's trademarks



ITALY – APPEAL

- 10/6/2013 – Gucci appealed the decision
- 10/07/2014 – Decision 3308/2014 partially reforming the first instance' one:
- confirmed nullity of logos G of Gucci
- No trademarks infringement
- **BUT, GUESS condemned for unfair competition (parasitic unfair competition) + damages to be determined**

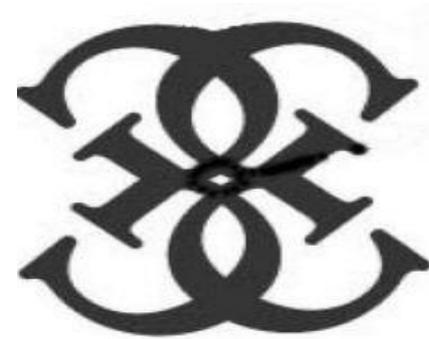
ITALY - APPEAL



logos «G» of GUCCI

- Simple letter G is devoid of distinctive character: simple letter of alphabet, very common in fashion field
- There is not risk of confusion with GUESS logo: visual differences

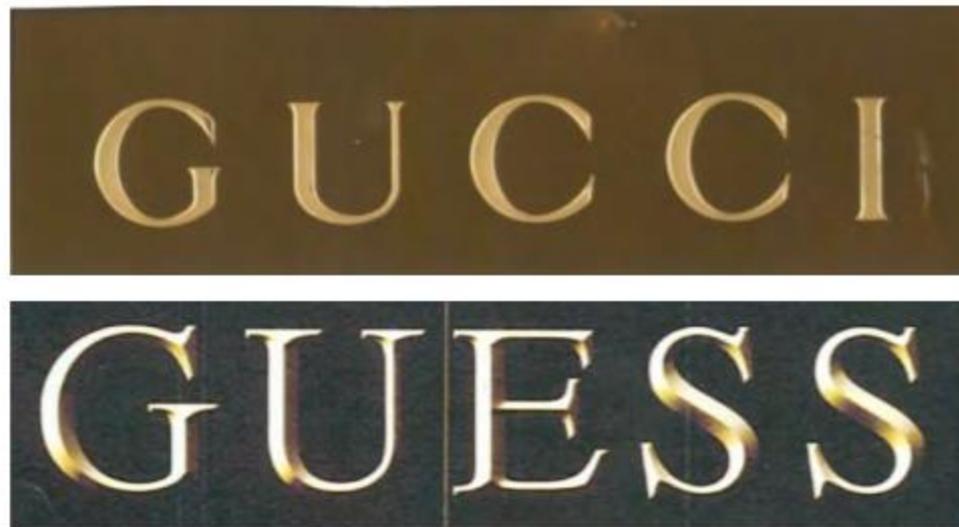
Visual comparison



Visual comparison



Visual comparison



ITALY APPEAL



Unfair competition

- Even if single circumstances are not enough
- The repeated behaviour of GUESS has to be considered as a whole
- Repeated several years/ seasons
- It has been valued as parasitic unfair competition

ITALY – APPEAL: affirmed unfair competition



- GUESS launched the same products (watches, bags, wallets) of GUCCI, after a short period
- Same style, same colour shadow, same materials, same kind of graphics
- Cheaper prices
- IT Court of Appeal also considered the GUESS's behavior in the US

ITALY – the matter still pending



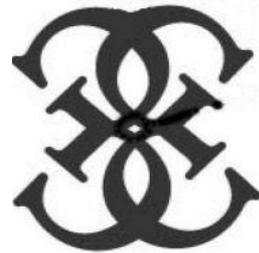
- Quantification of damages is still pending (Court of Appeal)
- Supreme Court Recourse

In the meantime

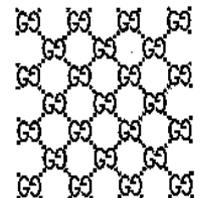
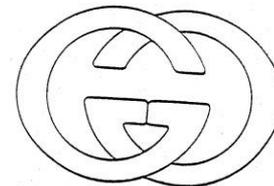
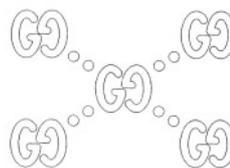
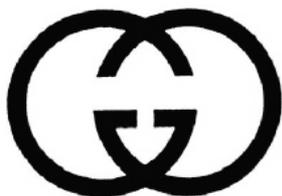
EUROPEAN UNION - EUIPO (UAMI)



- 26/06/2012 – Gucci filed opposition against the following trademark of Guess



- Likelihood of confusion with earlier trademarks:





EUROPEAN UNION_ EUIPO

- 1/07/2014 – Opposition Decision of EUIPO upheld the Gucci's opposition: the signs are confusingly similar
- 3/7/2014 – Guess appealed the decision
- 14/10/2015 – Board of Appeal of EUIPO annulled the decision: **the signs gave a completely different overall impression**

EUROPEAN UNION_

Judgement of the General Court



11/10/2016 – case T753/15:

Confirmed the Board of Appeal decision:

- The marks create a different visual impression
- The marks at issue are completely different
- Arguments concerning reputation of earlier Gucci's marks (art 8.5 RMUE) not valued.



- **Distinctive character of letter G and comparison between signs**
- European decision (October 2016)
- same conclusions of the Italian Courts (first instance decision 2013, confirmed by Court of Appeal of Milan - July 2014)

Thank you

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