Reports of Cases

OPINION OF ADVOCATE GENERAL
EMILIOU
delivered on 27 November 2025 [1]

Case C-412/24

Fauré Le Page Maroquinier SAS,
Fauré Le Page Paris SAS
v
Goyard ST-Honoré SAS

(Request for a preliminary ruling from the Cour de cassation (Court of Cassation, France))

(Reference for a preliminary ruling – Trade marks – Directive 2008/95/EC – Article 3 – Grounds for refusal or invalidity of a trade mark – Article 3(1)(g) – Misleading trade marks – Trade marks mentioning a year – Luxury leather goods such as handbags – Trade marks allegedly deceiving the public as to the year of establishment of their proprietor)

I. Introduction

1. The present request for a preliminary ruling concerns the interpretation of Article 3(1)(g) of Directive 2008/95/EC to approximate the laws of the Member States relating to trade marks. [2] That provision requires Member States to refuse the registration of, or declare invalid, trade marks that are of 'such a nature as to deceive the public, for instance, as to the nature, quality or geographical origin of the goods or service'.

2. That request was introduced in the context of a dispute between three French companies that manufacture and sell handbags and other leather goods – Fauré Le Page Maroquinier SAS and Fauré Le Page Paris SAS (together, 'Fauré Le Page'), on the one hand, and Goyard ST-Honoré SAS ('Goyard'), on the other hand – regarding the validity of two national semi-figurative trade marks, held by Fauré Le Page Paris which include the year '1717'.

3. According to Goyard, the contested trade marks are liable to deceive the public, within the meaning of Article 3(1)(g) of Directive 2008/95, and should, thus, be declared invalid in application of that provision. In that regard, it argues that the inclusion of the year '1717' in those trade marks conveys the impression that their proprietor was established in 1717 and, consequently, that the goods covered by the marks are produced according to the know-how of a

[1] Original language: English.

[2] Directive of the European Parliament and of the Council of 22 October 2008 (OJ 2008 L 299, p. 25). That directive is no longer in force and has been replaced by Directive (EU) 2015/2436 of the European Parliament and of the Council of 16 December 2015 to approximate the laws of the Member States relating to trade marks (OJ 2015 L 336, p. 1). Nevertheless, Directive 2008/95 is applicable *ratione temporis* in the case in the main proceedings.

centuries-old company and possess a particular level of quality. In reality, however, this is not the case, as Fauré Le Page Paris and Fauré Le Page Maroquinier were only created in 2009 and 2011, respectively.

4. Only one judgment has, to my knowledge, thus far been issued by the Court on the interpretation of a previous version of that provision.[3] The present case provides the Court with the opportunity to further clarify the conditions of its application.

II. Legal framework

A. European Union law

5. Article 3 of Directive 2008/95, which was entitled 'Grounds for refusal or invalidity', provided:

'1. The following shall not be registered or, if registered, shall be liable to be declared invalid:

…

(g) trade marks which are of such a nature as to deceive the public, for instance as to the nature, quality or geographical origin of the goods or service;

…'

B. French law

6. Under Article L. 711-3(c) of the Code de la propriété intellectuelle (Intellectual Property Code), in the version applicable to the facts of the case, no sign which is likely to deceive the public, including as to the nature, quality or geographical origin of the goods or service, can be adopted as a trade mark or element of a trade mark.

III. Facts, national proceedings and the questions referred

7. Up to 1992, Saillard Paris Sàrl ('Saillard'), a French company, had been the sole shareholder of Maison Fauré Le Page, another French company engaged in the purchase and sale of arms, ammunition and leather accessories in Paris since 1716. On 27 November 1992, that latter company was dissolved and all of its assets and liabilities were transferred to Saillard.

8. Fauré Le Page Paris, one of the applicants in the main proceedings, is a French company which was registered in the registre du commerce et des sociétés (Register of Trade and Companies, Paris) on 14 October 2009. On 29 October 2009, it acquired from Saillard French trade mark 'Fauré Le Page' No 134782 to designate, inter alia, 'edged weapons; firearms and their parts; ammunition and projectiles; explosives; shooting aids; cartridge boxes; leather and imitations of leather; trunks and suitcases'.

[3] See judgment of 30 March 2006, *Emanuel* (C-259/04, 'the judgment in Emanuel', EU:C:2006:215). In that judgment, the Court interpreted Article 3(1)(g) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1). The wording of that provision is, in essence, the same as the wording of Article 3(1)(g) of Directive 2008/95, its legal successor. Thus, the interpretation given in that judgment is transposable to that provision.

9. On 17 June 2011, Fauré Le Page Paris applied for the registration of French trade marks 'Fauré Le Page Paris 1717' Nos 3839809 and 3839811 to designate, inter alia, the goods 'leather and imitations of leather; trunks and suitcases; travelling bags; handbags'. Those trade marks were subsequently registered.

10. Fauré Le Page Marroquinier, the other applicant in the main proceedings, is a French company which, in 2012, opened a physical shop in Paris (France) for the sale of goods bearing the contested trade marks. Since 2013, it has also operated a retail outlet within a French department store, where such goods are likewise sold.

11. On 26 October 2012, Goyard brought proceedings against Fauré Le Page, seeking, inter alia, a declaration of invalidity in respect of the contested trade marks on the ground that they are likely to deceive the public within the meaning of Article L. 711-3(c) of the Intellectual Property Code. By decision of 30 January 2015, the Tribunal de Grande Instance de Paris (Regional Court, Paris, France) rejected Goyard's claim on that point. Goyard appealed against that decision before the Cour d'appel de Paris (Court of Appeal, Paris, France).

12. By judgment of 4 October 2016, the Cour d'appel de Paris (Court of Appeal, Paris) dismissed Goyard's appeal as regards the misleading nature of the contested trade marks. That decision was set aside by a judgment of the chambre commerciale de la Cour de Cassation (Commercial Chamber of the Court of Cassation, France) of 27 June 2018, on the ground that the year '1717' would not necessarily be interpreted by the public as referring to the year of establishment of Fauré Le Page, but rather as corresponding to the period during which Maison Fauré Le Page (of which Fauré Le Page is the successor) was founded.

13. Following referral of the case back after cassation, the Cour d'appel de Paris (Court of Appeal, Paris) ruled, on 23 November 2021, that the contested trade marks were likely to deceive the public and should, thus, be declared invalid.

14. In particular, that court found that the elements 'Paris 1717' contained in the contested trade marks would be understood by the public as referring to the place and year of establishment of Fauré Le Page's business and that the public would, thus, be led to believe that there had been a continuity of operations since 1717 and a transmission of know-how from the original Maison Fauré Le Page to Fauré Le Page, when that was in fact not the case. It added that consumers purchasing luxury leather goods often attach importance to the history and number of years of existence of the company marketing them, as a guarantee of the expertise involved in their manufacturing and their quality.

15. Fauré Le Page appealed against that judgment before the Cour de cassation (Court of Cassation, France), which is the referring court in the present case.

16. Before that court, Fauré Le Page claims that, for a trade mark to be regarded as liable to deceive the public within the meaning of Article 3(1)(g) of Directive 2008/95, the average consumer must be misled not as to characteristics of the proprietor of the trade mark, but as to those of the goods or services covered by the mark. Since the contested trade marks do not hint at any particular characteristics of the goods which they cover and suggest, at most, that those goods have a particular level of quality or prestige, they cannot be considered to fall within the scope of that provision.

17. The Cour de cassation (Court of Cassation) considers that, whereas Article 3(1)(g) of Directive 2008/95 lists various characteristics of the goods or services in respect of which a trade mark may be misleading, that list is non-exhaustive. Therefore, that provision may also apply in a situation where the trade mark conveys false information regarding the proprietor of the trade mark (such as, *in casu*, the number of years for which it has been active in the given sector) and the average consumer believes, as a result, that the goods or services have a particular level of quality or prestige.

18. In that regard, it recalls that, pursuant to the case-law of the Court,[4] the quality of luxury goods should be assessed not only in the light of their material characteristics, but also by taking into account the allure and prestigious image which bestows on them an aura of luxury.

19. Furthermore, it considers that the judgment in *Emanuel*, in which the Court indicated that a trade mark is not liable to deceive the public if the allegedly false information which it conveys relates to the company that manufactures the goods rather than the goods themselves, concerned a different situation. Indeed, in that case, the trade mark at issue comprised the name of a fashion designer.

20. Finally, it recalls the findings of the Cour d'appel de Paris (Court of Appeal, Paris), which are summarised in point 14 above.

21. In that context, the Cour de cassation (Court of Cassation) considers that the resolution of the dispute in the main proceedings depends on whether those findings are sufficient to declare the invalidity of the contested trade marks pursuant to Article 3(1)(g) of Directive 2008/95.

22. In that regard, it considers that it is necessary, first of all, to determine whether the fact that a trade mark conveys incorrect information about its proprietor, such as to influence the average consumer of the goods or services covered by the mark, is sufficient to lead to the conclusion that the trade mark is misleading, or whether the average consumer's error must relate to a characteristic of those goods or services.

23. Next, in the event that that error relates to a characteristic of the goods or services covered by the trade mark, the Cour de cassation (Court of Cassation) asks whether, for a trade mark to be considered misleading, it must constitute a sufficiently specific designation of the potential characteristics of those goods or services.

24. Lastly, if the answer to that question is in the affirmative, that court asks whether, in the case of luxury goods in particular, the fact that the trade mark attributes to its proprietor significant experience or know-how in the manufacture of the goods that it covers may constitute such a sufficiently specific designation.

[4] See judgment of 23 April 2009, *Copad* (C-59/08, EU:C:2009:260). That judgment concerned whether damage to the quality of goods may be alleged against a licensee by the proprietor of a trade mark.

25. In the light of the foregoing, the Cour de cassation (Court of Cassation) decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:

'(1) Must Article 3(1)(g) of Directive [2008/95] be interpreted as meaning that a reference to a fanciful [year] in a trade mark conveying false information on the age, reliability and know-how of the manufacturer of the goods and, consequently, on one of the intangible characteristics of those goods is sufficient to establish the existence of actual deceit or a sufficiently serious risk that the consumer will be deceived?

(2) If the answer to the first question is in the negative, must that article be interpreted as meaning[:]

(a) that a trade mark may be regarded as deceptive where there is a likelihood that consumers of the goods and services designated by the trade mark will believe that the proprietor of that trade mark has been producing those goods for centuries, thereby conferring on them a prestigious image, whereas that is not the case?

(b) that, in order to establish the existence of actual deceit or a sufficiently serious risk that the consumer will be deceived, on which a finding that a trade mark is deceptive depends, the trade mark must constitute a sufficiently specific designation of potential characteristics of the goods and services for which it is registered, so that the targeted consumer is led to believe that the goods and services possess certain characteristics which they do not in fact possess?'

26. The request for a preliminary ruling, dated 5 June 2024, was lodged at the Registry of the Court of Justice on 10 June 2024. Fauré Le Page, Goyard, the French Republic and the European Commission submitted written observations. The same interested parties also answered in writing questions put by the Court. No hearing was held.

IV. Analysis

27. By its three questions, which I will analyse together, the Cour de cassation (Court of Cassation) enquires, in essence, about the applicability of the ground for invalidity contained in Article 3(1)(g) of Directive 2008/95 to a trade mark which comprises, as one of its elements, a year (*in casu*, 1717). That court wonders whether such a year could be understood by the public merely as the (incorrect) year of establishment of the proprietor of the contested trade marks (*in casu*, Fauré Le Page Paris), or also as conveying (allegedly false) information about a characteristic of the goods covered by those marks, namely that they are produced according to the know-how of a centuries-old company and possess a particular level of quality.

28. I will begin my assessment by clarifying that a trade mark which is liable to deceive the public as to a characteristic of its proprietor cannot be declared invalid under that provision, unless it is established that such a trade mark is also misleading as to a characteristic of the goods or services that it covers. Furthermore, the mark must constitute a sufficiently specific designation of such a characteristic. I will explain the reasons why, in my view, a trade mark such as the contested ones does not satisfy either of those conditions (A).

29. I shall then explain that, even assuming that an element of a trade mark – such as the year '1717' – is capable of conveying information relating to a specific characteristic of the goods or services covered, any potential inaccuracy of that information, and hence the misleading nature of the mark, must be assessed solely in the light of the characteristics of the goods or services as they emerge from the application for registration. Those characteristics do not include extraneous elements, such as the actual year on which the proprietor of the trade mark was established (in the present case, 2009) (B).

30. Finally, I will explain that the solution which I propose that the Court adopt does not however preclude a trade mark incorporating a reference to the (approximate) year in which the original manufacturer of the goods covered by the mark was established (*in casu*, Maison Fauré Le Page), rather than the year of establishment of its current proprietor (*in casu*, Fauré Le Page Paris), from being *revoked* – as distinct from being declared invalid – under a different provision of Directive 2008/95. Nor does it preclude the availability of other legal remedies (C).

A. The trade mark must be of such a nature as to deceive the public as to a specific characteristic of the goods or services covered

31. All of the parties and interested parties, with the exception of Goyard, consider that, for a trade mark to be declared invalid under Article 3(1)(g) of Directive 2008/95, it must be of such a nature as to deceive the public as to a characteristic of *the goods or services* that it covers.

32. For its part, Goyard claims that, while that provision expressly states that the deceptive nature of the trade mark may relate to the 'nature, quality or geographical origin of the goods or service[s]', that enumeration is non-exhaustive (as it is preceded by the words 'for instance'). Consequently, a trade mark that is liable to deceive the public as to particular characteristic of its proprietor (or of the company manufacturing the goods that it covers) alone, such as its year of establishment, may also be declared invalid in application of Article 3(1)(g) of Directive 2008/95, without it being necessary to establish that the information conveyed by the mark relates to any particular characteristic of the goods or services which it covers. [5]

33. I do not share that view. To begin with, I note that all the examples listed in that provision (the 'nature, quality or geographical origin') are expressly identified as characteristics of the goods or services covered by the trade mark. On that basis, the French Government considers that the terms 'for instance' used in Article 3(1)(g) of Directive 2008/95 indicate that the EU legislature intended to leave open the list of characteristics of the goods or services in respect of which a trade mark may be deceptive, and not to permit that the deceptive nature of a trade mark may be established with regard to characteristics of its proprietor alone.

34. The case-law of the Court supports that interpretation. In the judgment in *Emanuel*, [6] the Court held that a trade mark corresponding to the name of the designer and first manufacturer of the goods bearing that mark – who was no longer involved in their production – could not, on that ground alone, be refused registration for being liable to deceive the public. That judgment provides a first indication that Article 3(1)(g) of Directive 2008/95 was not intended to apply to

[5] I note, in passing, that Goyard's line of argument in that regard is not entirely consistent. On the one hand, it claims, as I have just explained, that it follows from the wording of Article 3(1)(g) of Directive 2008/95 that the relevant characteristic does not need to relate to the goods covered by that mark and may concern, for example, the manufacturer of those goods. On the other hand, in response to a question of the Court, it appears to consider that the (incorrect) information supplied by the trade mark as regards that manufacturer must necessarily lead the public to assume that the goods have certain characteristics which they do not in fact possess.

[6] Paragraph 51.

trade marks that are merely capable of misleading the public as to a characteristic of their proprietor, such as that person's identity (as in the judgment in *Emanuel*) or year of establishment (as is allegedly the case here).

35. Furthermore, examples from the General Court's case-law on the interpretation of Article 7(1)(g) of Regulation (EC) No 207/2009[7] (which applied to EU trade marks, but is identical in wording to Article 3(1)(g) of Directive 2008/95) show that the assessment of whether a trade mark is 'of such a nature as to deceive the public' is always made with respect to characteristics of the goods or services covered by the mark.

36. In particular, the General Court has found that the EU word mark BIO-INSECT Shocker was of such a nature as to deceive the relevant public, in so far as it would be perceived by the latter as designating organic goods or goods associated with respect for the environment, whereas it had in fact been registered for biocidal products.[8] That court has likewise held that registration of the sign CAFFÈ NERO as an EU word mark was rightly refused, on the ground that consumers would be likely to believe that some of the goods covered by the application for registration – namely tea, cocoa and cocoa-based preparations, as well as coffee substitutes – were or contained black coffee, although in reality that was not the case.[9]

37. More generally, the General Court has held that, for the purposes of applying Article 7(1)(g) of Regulation No 207/2009, it must be determined whether, at the date of the application for registration of the mark, there existed any inconsistency between the information conveyed by the contested mark and the *characteristics of the goods* designated in that application.[10] In the same vein, that court has observed that 'only where the targeted consumer is led to believe that the *goods and services* possess certain characteristics which they do not in fact possess will he [or she] be deceived by the trade mark',[11] thereby confirming that the assessment under that provision must focus on the perception of the relevant public in relation to the goods or services themselves.

38. A contextual and teleological interpretation of Article 3(1)(g) of Directive 2008/95 further supports the conclusion that, for a trade mark to be declared invalid pursuant to that provision, it is necessary for it to be deceptive as to a characteristic of the goods or services covered by it (and not merely of its proprietor).

39. First, Article 13 of Directive 2008/95 provides that 'where grounds for refusal of registration or for revocation or invalidity of a trade mark exist in respect of only some of the goods or services for which that trade mark has been applied for or registered, refusal of registration or revocation or invalidity shall cover those goods or services only'. As Fauré Le Page points out,

7 Regulation of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1), which applied prior to the entry into force of 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). Article 7(1)(g) of that regulation is itself identical in wording to Article 7(1)(g) of Regulation No 207/2009.

8 See judgment of 13 May 2020, *SolNova* v *EUIPO – Canina Pharma (BIO-INSECT Shocker)* (T-86/19, EU:T:2020:199).

9 See judgment of 27 October 2016, *Caffè Nero Group* v *EUIPO (CAFFÈ NERO)* (T-29/16, not published, EU:T:2016:635). See, also, judgments of 26 October 2017, *Alpirsbacher Klosterbräu Glauner* v *EUIPO (Klosterstoff)* (T-844/16, EU:T:2017:759), in which the General Court confirmed a decision to refuse the registration of the sign Klosterstoff, on the ground that the mark sought was of such a nature as to deceive the relevant public with respect to the goods 'non-alcoholic beverages, in particular non-alcoholic beer', and of 29 November 2023, *Myforest Foods* v *EUIPO (MYBACON)* (T-107/23, not published, EU:T:2023:769), in which it held that the sign MYBACON should be refused registration as an EU word mark, as it was liable to deceive the public as to the nature of the foodstuffs in question, which were fungi-based meat substitutes; meat substitutes; prepared meals composed mainly of meat substitutes including fungi-based meat substitutes'.

10 Judgment of 29 June 2022, *Hijos de Moisés Rodríguez González* v *EUIPO – Ireland and Ornua (La Irlandesa 1943)* (T-306/20, EU:T:2022:404). Emphasis added.

11 See judgment of 29 November 2018, *Khadi and Village Industries Commission* v *EUIPO – BNP Best Natural Products (Khadi Ayurveda)* (T-683/17, not published, EU:T:2018:860, paragraph 53 and the case-law cited). Emphasis added.

since that provision presupposes that a trade mark may be deceptive as to a characteristic of only some of the goods or services that it covers, it confirms that the assessment of the ground for invalidity in Article 3(1)(g) of the Directive must always be performed in respect of those goods or services.

40. Second, the interpretation which I propose that the Court adopt is consistent with the wording of Article 2 of Directive 2008/95, which provides that only signs capable of distinguishing the *goods or services*[12] of one undertaking from those of other undertakings may constitute a 'trade mark'. In the context of the application of Article 7(1)(g) of Regulation No 207/2009, the General Court has held that the essential function of a trade mark is to guarantee the identity of origin of the marked goods or services to the consumer or end user by enabling him, without any possibility of confusion, to distinguish the goods or services from others which have another origin. The assessment under that provision, therefore, cannot extend beyond the goods and services in question on the one hand, and the perception of the mark by the relevant public on the other.[13] It is clear to me that the same logic underpins Article 3(1)(g) of Directive 2008/95.

41. In light of the foregoing, I am of the view that a trade mark which is liable to deceive the public solely with regard to a characteristic of its proprietor, such as its year of establishment, and not with respect to a characteristic of the goods or services that it covers, cannot be declared invalid under that provision.

42. It follows, *in casu*, that the mere fact that the contested trade marks may be liable to deceive the public as to the year of establishment of their proprietor would not be sufficient for a finding of invalidity under Article 3(1)(g) of Directive 2008/95. As the French Government observes, that year does not, in itself, convey any information concerning the goods or services covered by those trade marks.

43. Having said that, it is true, as the referring court itself points out, that the inclusion of the year of establishment of the trade mark's proprietor in a trade mark may be perceived by the public – particularly if that year is notably old – as an indication that the goods or services covered by the mark are produced or provided in accordance with specific know-how and possess a certain level of quality or prestige.

44. However, in that regard, I recall that, for a trade mark to be declared invalid under Article 3(1)(g) of Directive 2008/95, it must not only be of such a nature as to deceive the public as to a characteristic of the goods or services covered by it, but must also constitute a *sufficiently specific* designation of such a characteristic. Indeed, according to the settled case-law of the General Court – which, in my view, the Court of Justice should endorse – where a mark does not convey a sufficiently specific and clear message concerning the protected goods and services, or their characteristics, but merely hints at them, there can be no deception in relation to those goods and services.[14]

[12] Emphasis added.

[13] See judgment of 22 March 2018, *Safe Skies* v *EUIPO – Travel Sentry (TSA LOCK)* (T-60/17, not published, EU:T:2018:164, paragraphs 62 and 63 and the case-law cited). See, also, judgment of 2 April 2025, *Giuliani* v *EUIPO – H&H (Swisse)* (T-442/23, not published, EU:T:2025:354, paragraph 100 and the case-law cited).

[14] See, by analogy, the case-law on Article 7(1)(g) of Regulation No 207/2009, in particular judgment of 27 June 2017, *Aldi Einkauf* v *EUIPO – Fratelli Polli (ANTICO CASALE)* (T-327/16, not published, EU:T:2017:439, paragraph 51 and the case-law cited). As the European Union Office for Intellectual Property (EUIPO) explains in its guidelines, the relevant public must recognise the sign as conveying a specific, clear and unambiguous message regarding the nature, quality or geographical origin (or other characteristic) of goods and services worded in such a manner that non-deceptive use is impossible (see https://guidelines.euipo.europa.eu/2302857/2227837/trade-mark-guidelines/2-the-test-for-deceptiveness).

45. In my view, the inclusion of a mere year in a trade mark – without any clear indication that it (allegedly) corresponds to the year of establishment of the trade mark's proprietor – does not, in itself, constitute such a sufficiently specific designation.

46. Indeed, in the absence of any additional clarification, such a year may be understood by the public as the year of establishment of the company currently manufacturing or selling the goods or providing the services covered by the mark – which may be a different legal or natural person from the proprietor of the trade mark – or as the founding year (or another significant year in the history) of the company that originally manufactured those goods or provided those services and subsequently transferred its assets to another entity. If the latter interpretation were accepted in the present case, then – subject to the assessment of the referring court – I consider that the contested trade marks could scarcely be regarded as liable to mislead the public at all, since Maison Fauré Le Page, the original manufacturer of the goods marketed by Fauré Le Page, was in existence in 1717 (having been founded the year before, in 1716).

47. Furthermore, a mere year such as '1717', included in a trade mark, could equally be perceived as referring to the year in which the design of the goods bearing the mark first came into existence, or the year in which the first model or version of those goods was placed on the market. It could also be interpreted as the year in which the know-how or technique applied in the production of the goods was first developed or, as the Commission observes, as a purely invented or fictional year, which neither attests to the know-how or experience of the undertaking behind the goods nor to the quality of those goods.

48. In my view, the wording of the questions referred by the Cour de cassation (Court of Cassation) attests to that ambiguity. That court observes that the element '1717' in the contested trade marks may be regarded, on the one hand, as conveying false information concerning the 'age, reliability and know-how of the manufacturer of the goods', and, on the other hand, as suggesting that the proprietor of those trade marks has been producing the goods in question for centuries, thereby conferring upon them a prestigious image. The fact that those multiple – and, to a certain extent, vague – interpretations of the element '1717' are envisaged by the Cour de cassation (Court of Cassation) confirms, in my view, that the contested trade marks do not constitute a sufficiently specific designation of a characteristic of the goods that they cover. The assessment might be different if, instead of that element, the trade marks included more precise wording such as 'Craftsmanship from 1717' or 'Technique applied since 1717'. However, that is not the case here.

B. The assessment under Article 3(1)(g) must be based on the trade mark and the list of goods or services covered only

49. In this section, I shall explain that, even if an element of a trade mark – such as the year '1717' – is found to convey information about a specific characteristic of the goods or services it covers – for example, by indicating that those goods are produced according to the know-how of a centuries-old company and possess a particular level of quality – the inaccuracy of that information, and therefore the potentially misleading nature of the mark, can in any event only be assessed in the light of the characteristics of the goods or services as they appear from the application for registration. Such characteristics do not include the year in which the trade mark's proprietor was in fact established (in this case, 2009).

50. In that regard, I recall that, in my Opinion in *PMJC*,[15] I explained that the Court has already held that 'in order to find that a mark has been registered in breach of the ground for refusal relating to the risk of deception, it must be established that the sign filed for the purposes of registration as a trade mark creates *per se* such a risk'.[16] As Fauré Le Page, the French Government and the Commission argue, the ground for invalidity set out in Article 3(1)(g) of Directive 2008/95 requires establishing that, at the time the application for registration was filed, the trade mark was *inherently* deceptive[17] – in the sense that the public would infer from it information that is necessarily false in relation to the goods or services listed in that application. In other words, there must have been, *ab initio*,[18] an inconsistency between the information conveyed by the trade mark and the characteristics of the goods or services designated in that application.[19]

51. It follows that any specific circumstance which does not arise from the mark itself, or from the list of goods and services covered by that mark as presented at the time of the application, should not be taken into consideration in the assessment of deceptiveness under Article 3(1)(g) of Directive 2008/95.[20]

52. In the present case, no inconsistency exists between the information conveyed by the trade mark and the characteristics of the goods or services that can be gleaned from the application for registration. Indeed, there is nothing in the list of goods contained in that application – namely 'leather and imitations of leather; trunks and suitcases; travelling bags; handbags' – that is capable of contradicting the information allegedly conveyed by the contested trade marks, namely that the goods covered by those marks are produced according to the know-how of a centuries-old company and possess a particular level of quality. The fact that Fauré Le Page Paris and Fauré Le Page Maroquinier were only created in 2009 and 2011, respectively, cannot be taken into account, since, as I have explained, that information does not appear in the contested trade marks themselves or in the list of goods or services covered by them.

53. Nevertheless, Goyard argues that, among the various examples referred to in Article 3(1)(g) of Directive 2008/95 and recalled in point 31 above, the example relating to 'geographical origin' presupposes the taking into account of circumstances relating to where the goods or services in question are made, which are extrinsic to the trade mark itself or the list of goods or services covered by it. According to Goyard, it would follow that elements such as, in the present case, the fact that Fauré Le Page Paris and Fauré Le Page Maroquinier were established in 2009 and 2011, respectively – which does not appear either in the trade mark itself or in the list of goods or services that it covers – may also be taken into account to establish the invalidity of the mark pursuant to Article (1)(g) of Directive 2008/95.

15 C-168/24, EU:C:2025:221 ('my Opinion in *PMJC*'). See points 41 to 46 of that Opinion.

16 See judgment of 8 June 2017, *W. F. Gözze Frottierweberei and Gözze* (C-689/15, EU:C:2017:434, paragraph 55 and the case-law cited). Emphasis added. That judgment concerned the interpretation of Article 7(1)(g) of Regulation No 207/2009, not of Article 3(1)(g) of Directive 2008/95. However, it can be applied by analogy to the interpretation of that latter provision.

17 See, by analogy, judgment of 3 September 2025, *Verband der Islamischen Kulturzentren* v *EUIPO – Inaba Shokuhin (TUNA)* (T-377/24, not published, EU:T:2025:825, paragraph 80 and the case-law cited). See, also, points 41 and 44 of my Opinion in *PMJC* and the case-law cited.

18 See, by analogy, judgment of 29 June 2022, *Hijos de Moisés Rodríguez González* v *EUIPO – Ireland and Ornua (La Irlandesa 1943)* (T-306/20, EU:T:2022:404, paragraph 68).

19 See, by analogy, the case-law cited in point 37 above.

20 See, by analogy, judgment of 3 September 2025, *Verband der Islamischen Kulturzentren* v *EUIPO – Inaba Shokuhin (TUNA)* (T-377/24, not published, EU:T:2025:825, paragraphs 81 to 83).

54. Again, I disagree. To begin with, I acknowledge that there are no examples in the case-law of the Court – or, for that matter, of the General Court – where a trade mark has actually been found to be liable to deceive the public, within the meaning of that provision or of Article 7(1)(g) of Regulation No 207/2009 (which, as I have already explained in point 35 above, is drafted in terms identical to Article 3(1)(g) of Directive 2008/95), as regards the 'geographical origin' of the goods or services that it covers.

55. However, it appears to me that, in the context of the application of Article 7(1)(g) of Regulation No 207/2009, the General Court has adopted a broad interpretation of the concept of 'geographical origin', understanding it as referring to the place of origin or provenance of the goods or services – for example, an old farmhouse – which does not need to be a specific geographical location. [21]

56. On that basis, I can readily envisage, for example, that a trade mark containing the words 'From the forest' could be declared invalid under Article 3(1)(g) of Directive 2008/95 in respect of goods which would be described in the application for registration as 'furniture made of materials that imitate wood (such as plastic)', on the ground that such a trade mark is liable to mislead the public not only as to the composition but also as to the place of origin or provenance of the relevant products. Such an assessment could be undertaken without it being necessary to consider elements other than the trade mark itself or the list of goods or services covered by it.

57. Accordingly, I am not persuaded by Goyard's argument that the reference to the 'geographical origin' of the goods or services in that provision necessarily implies that extraneous elements necessarily must be taken into account. [22]

58. In the light of those considerations, I take the view that, *in casu*, the fact that Fauré Le Page Paris and Fauré Le Page Marroquinier were established in 2009 and 2011, respectively, cannot be taken into account to establish that the contested trade marks are of such a nature as to deceive the public and should therefore be declared invalid under Article 3(1)(g) of Directive 2008/95. On that basis, and subject to the findings of the referring court, I find it difficult to see how the ground for invalidity set out in that provision could be applied to those trade marks.

C. Final remarks: the distinction between invalidity and revocation and other legal remedies

59. As I have already explained in the Introduction, Goyard's main line of argument with regard to the contested trademarks is that they contain an element – the year '1717' – which could give the public the (false) impression that the original manufacturer of the goods covered by the mark (Maison Fauré Le Page, established in 1716) is still involved in their production, whereas the current proprietor (Fauré Le Page Paris) was founded in 2009.

[21] See judgment of 27 June 2017, *Aldi Einkauf* v *EUIPO – Fratelli Polli (ANTICO CASALE)* (T-327/16, not published, EU:T:2017:439, paragraphs 46 to 52). In that judgment, however, the General Court upheld the findings of the Board of Appeal of the European Union Intellectual Property Office (EUIPO), holding that the relevant public would not perceive the terms 'antico casale' as conveying a sufficiently specific and clear message and would therefore not regard that element of the trade mark as an indication of the geographical origin of the goods at issue, but rather as a purely laudatory expression.

[22] As I will explain in point 62 below, however, elements other than the trade mark itself or the list of goods or services that it covers (such as circumstances relating to *where* those goods or services are in fact produced or provided) may be taken into account for the purposes of applying Article 12(2)(b) of Directive 2008/95, which concerns the revocation of trade marks by reason of their deceptiveness. For example, the trade mark 'Mövenpick of Switzerland' was revoked because the goods in question were produced in Germany (see Decision of the First Board of Appeal of 12 February 2009, R 697/2008-1, *Biscosuisse – Chocosuisse* v *Mövenpick Holding*, paragraphs 17 to 19).

60. To complete my assessment, I would add that declaring a trade mark such as the contested trademarks invalid under Article 3(1)(g) of Directive 2008/95 for that reason only would, in my view, run counter to the fundamental principle that trade marks constitute autonomous objects of commercial transactions. Their ownership may be transferred from one person or undertaking to another, without such a transfer rendering the trade mark itself invalid. That, in essence, is what the Court held in the judgment in *Emanuel* with respect to a trade mark bearing the name of the initial designer of the garments in question, who was no longer involved in their production. [23]

61. I understand from the request for a preliminary ruling that Fauré Le Page lawfully acquired the French trade mark 'Fauré Le Page' from Saillard, which itself had been the sole shareholder of the original Maison Fauré Le Page, from which it subsequently acquired all assets and liabilities. I also agree with Fauré Le Page that the public is aware that trade marks – particularly those registered for goods in the luxury sector, as is the case here – often refer to the year of establishment of the original or first manufacturer, even though that manufacturer is no longer responsible for producing the goods. That is a natural consequence of the fact that centuries-old businesses rarely remain unchanged over time, and in practice undergo various transactions – sales, buybacks, restructurings and licensing of trade marks. It is evident that such transactions cannot, in and of themselves, automatically render trade marks invalid when they contain elements relating to their previous or initial proprietor.

62. Having said that, the solution which I propose that the Court adopt does not, in my view, preclude the possibility of *revocation* of such trade marks, where circumstances relating to their use after registration demonstrate that the original manufacturer (or previous or initial proprietor of the trade mark) is no longer involved in the production of the goods or the provision of the services covered by the mark, and that, as a result, the mark is liable to mislead the public as to a characteristic of those goods or services.

63. In that regard, I recall that, in my Opinion in *PMJC*, [24] I clarified the distinction between Article 3(1)(g) of Directive 2008/95, which relates to invalidity – that is, whether a trade mark should have been registered in the first place – and Article 12(2)(b) of the same directive, which concerns revocation, namely whether a trade mark which was validly registered should nevertheless be revoked because it no longer meets the conditions for registration. As I have already indicated, under the former provision, elements which do not appear in the trade mark itself or in the list of goods or services presented in the application for registration cannot be taken into account. By contrast, Article 12(2)(b) of Directive 2008/95 provides that a trade mark shall be liable to revocation if, after the date of registration, '*in consequence of the use* made by the proprietor of the trademark or with his consent in respect of the goods or services for which it is registered, it is liable to mislead the public, particularly as to the nature, quality or geographical origin of those goods or services'. [25] Under that provision, extrinsic elements relating to how the trade mark has been used since registration may therefore be considered.

64. It follows that, whereas a trade mark containing elements referring to its previous or initial proprietor, or to the original manufacturer of the goods or provider of the services that it covers, cannot be declared invalid under Article 3(1)(g) of Directive 2008/95, it may nevertheless be

[23] See paragraphs 45 to 49 of that judgment. See, also, Opinion of Advocate General Ruiz-Jarabo Colomer in *Emanuel* (C-259/04, EU:C:2006:50, points 35 to 40). Finally, see judgment of 14 May 2009, Fiorucci v *OHIM – Edwin (ELIO FIORUCCI)* (T-165/06, EU:T:2009:157, paragraphs 30 to 34). I add that Article 21 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs) states that 'the owner of a registered trade mark shall have the right to assign the trade mark with or without the transfer of the business to which the trade mark belongs'.

[24] See points 50 to 54 of that Opinion.

[25] Emphasis added.

revoked pursuant to Article 12(2)(b) of that directive if it is shown, for example, that, following registration, the mark has been used for goods whose production bears no link whatsoever with that original manufacturer or producer. I recall that that is, in essence, the conclusion which I reached in my Opinion in *PMJC*, where I suggested that the Court interpret the latter provision as not precluding the *revocation* of a trade mark consisting of the surname of a designer on the ground that, after its assignment, it was used in such a way as to make the public actually believe that that designer remained involved in the creation of the goods bearing that mark, when that was no longer the case.

65. Finally, I note that recital 7 of Directive 2008/95 provides that the Directive 'should not exclude the application to trade marks of provisions of law of the Member States other than trade mark law, such as the provisions relating to unfair competition, civil liability or consumer protection'. As the Court explained in the judgment in *Emanuel*,[26] the inclusion of 'incorrect' information in a trade mark may, in certain circumstances, constitute 'fraudulent' conduct – for the purposes of establishing civil liability – even though it may not amount to deception within the meaning of Article 3(1)(g) of that directive. That might be the case, in particular, where the proprietor of the trade mark presents itself to the relevant public as the legal or economic successor of the proprietor of a prior similar trade mark, without there being any relationship of continuity or succession between the two.

66. Such a circumstance, if already in existence at the time of registration of the trade mark, could also be taken into account to conclude as to the invalidity of that trade mark on the basis of a different ground of Article 3(2) of Directive 2008/95 – namely, Article 3(2)(d) thereof – which concerns applications made in bad faith.[27]

67. However, the success of any such alternative claim would depend on whether it could be established that the proprietor of the trade mark – *in casu*, Fauré Le Page – deliberately sought to create a false impression of continuity or succession. As I understand it, and subject to the assessment of the referring court, that does not appear to be the case here, since, as I have already observed in point 60 above, Fauré Le Page Paris has lawfully acquired the French trade mark 'Fauré Le Page' from Saillard, which itself had been the sole shareholder of the original Maison Fauré Le Page, from which it subsequently acquired all assets and liabilities.

V. Conclusion

68. In the light of all of the foregoing considerations, I propose that the Court answer the questions referred for a preliminary ruling by the Cour de cassation (Court of Cassation, France) as follows:

Article 3(1)(g) of Directive 2008/95/EC of the European Parliament and of the Council of 22 October 2008 to approximate the laws of the Member States relating to trade marks

must be interpreted as meaning that the inclusion, in a trade mark, of a year which may be understood by the public as indicating the year of establishment of the trade mark's proprietor, when that is not the case, cannot, in itself, lead to the invalidity of that mark. For a trade mark to

[26] See paragraph 50 of that judgment.

[27] See, by analogy with respect to Regulation No 207/2009, judgment of 6 July 2022, *Zdút* v *EUIPO – Nehera and Others (nehera)* (T-250/21, EU:T:2022:430, paragraph 68). The provision equivalent to Article 3(2)(d) of Directive 2008/95 in the context of that regulation is Article 52(1)(b).

be declared invalid under that provision, it must be of such a nature as to deceive the public as to a characteristic of the goods or services that it covers and must constitute a sufficiently specific designation of that characteristic. Moreover, any circumstance – such as the actual year of establishment of the trade mark's current proprietor –external to the mark itself or the list of goods and services covered by it, as presented at the time of the application for registration, should not be taken into account in the assessment under Article 3(1)(g) of that directive.