



## ABSTRACT

### APPLICATION PROCEDURE TO FILE OR NOT TO FILE – ANSWERS FROM THE INDUSTRY

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With 27 Global brands [with each annual sales of more than 50 Million €uros], 72 600 employees of 126 different nationalities, a presence in 130 countries and 5.8 Billion products manufactured, it is perhaps no secret for many of you that L'Oreal is the largest and leading beauty and cosmetics company in the world.

With a worldwide portfolio of more than 250 000 trade mark registrations, our company is regularly acknowledged for being one of the top leading trade mark applicants in France but also in the EU. We cannot indeed stress enough the crucial, incredibly valuable and strategic role played by trade mark protection at L'Oreal and how much faith we put on the system, be it at a National or EU level.

Being a leading brand owner, our first and foremost priority is obviously to ensure that trademarks are available and that we achieve the most accurate assessment of risks when clearing any new project.

The new trend we currently observe, at least within our Group, is not related to the challenges of a swift and powerful enforcement of our Intellectual Property Rights, but the drawbacks and pitfalls we face when making the right call on the availability of signs, particularly concerning trademarks.

With endless calls for strong innovation and consistent stimulation, shorter lifespan of some of our products and the constant need to "outsmart" competition, there is no time to make "test" applications. It is crucial to know from day one whether the project is viable or not and in this regard, the application procedure is of the utmost importance.

Globalisation of the business, the need of strong brands in order to satisfy everyday more demanding consumers obviously leads to cluttered Trade Mark registers.

It can actually be quite mind-blowing to clear and make an accurate and sensible risk assessment when you face every year hundreds of words, letters, numbers, logos, shapes, and devices ranging from institutional brands to new lines, product names, ingredients, packagings and taglines.

Add to that the differences and variations observed in our everyday practice from the National Offices and OHIM and it becomes a trying, challenging but also fascinating game!

I will explain during the course of our presentation how, generally speaking, straightforward the application procedure is in our industry when it comes to 3D Marks and Device Marks. These are, in the end, one of the most obvious and eye-catching "window" of our innovation and creativity and we thrive around them.



By way of comparison, just to name a few and as recent interesting decisions have shown [which will also be discussed], not the same can be said as regards my fashion, food and beverages industries peers!

On the other hand, the application procedure regarding word marks can be frustrating and the inconsistencies at different levels difficult to consider.

How varying, unpredictable and less than harmonised procedures and decisions eventually hurt brand owners?

Where are the boundaries between allusive, suggestive marks and descriptive terms? It is quite unfortunate to see trademarks which should have never been granted lead to worrying decisions in the daunting world of likelihood of confusion.

I will also discuss from our industry standpoint the hot topics looming:

Where and how do we move forward within the Union following IP Translator?

How can we ensure that as trademark owners and trademark practitioners we are able to anticipate the degree of protection and a consistent interpretation from Trademark Offices and Courts when facing future conflicts and when it's time to enforce our trademark rights?

What are the exciting points we can derive from the revision proposals regarding the application procedure?