

**DECISION
of the Fourth Board of Appeal
of 23 March 2026**

In case R 1933/2024-4

Kentucky Fried Chicken International Holdings LLC

7 100 Corporate Drive

75024 Plano

United States of America

Applicant / Appellant

represented by Hogan Lovells (Alicante) S.L. & Cia., Avenida Federico Soto 13, 03003 Alicante, Spain

APPEAL relating to European Union trade mark application No 18 906 786

THE FOURTH BOARD OF APPEAL

composed of N. Korjus (Chairperson), J. Jiménez Llorente (Rapporteur) and A. Kralik (Member)

Acting Registrar: K. Zajfert

gives the following

Decision

Summary of the facts

- 1 By an application filed on 27 July 2023, Kentucky Fried Chicken International Holdings LLC ('the applicant') sought to register the word mark

KENTUCKY

('the contested sign') as a European Union trade mark ('EUTM') for the following goods and services, as limited on 12 September 2023:

Class 29: Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk, cheese, butter, yogurt and other milk products; oils and fats for food; seafood and seafood products; meat products; grilled meat; burgers; bacon, sausages, hot dogs (sausages); steak; poultry products; cooked chicken, frozen chicken, fried chicken, baked chicken, barbecued chicken, broiled chicken, chicken salad; prepared meals consisting principally of vegetables, poultry, meat, eggs and/or seafood; prepared meals containing chicken; prepared meals made of eggs; snack foods made from vegetables, poultry, meat, eggs and/or seafood; snack food products consisting of chicken meat; potato-based snack foods; potato chips; potato crisps; french fries; potato fritters; cooked potatoes; mashed potato; mashed potato products; hash brown potatoes; cheese; beans (prepared and ready to eat), baked beans; salads, prepared peppers, prepared corn, prepared green beans; pickles; cranberry sauces (compote); dairy desserts (except ice cream or frozen yoghurt); prepared desserts (fruit based); soya-based yoghurts; beverages with a milk base.

Class 30: Coffee, tea, cocoa and substitutes therefor; rice, pasta and noodles; tapioca and sago; flour and preparations made from cereals; bread, cakes, pastries and confectionery; chocolate; ice cream, sorbets and other edible ices; sugar, honey, treacle; yeast, baking-powder; salt, seasonings, spices, preserved herbs; vinegar, sauces, and other condiments; ice (frozen water); mustard; dried herbs and seasonings; salad dressings; gravies; sandwiches; sandwiches containing chicken; burgers contained in bread rolls; chicken burgers contained in bread rolls; wraps (sandwiches); wraps containing chicken; hot dogs; tortillas; pita bread; bread rolls; filled rolls; sausage rolls; filled rolls containing chicken; pies; chicken pot pies; prepared meals made predominantly from cereals, rice, pasta or noodles; pasta salads; rice salads; snack foods made from cereals and/or flour; snack foods consisting principally of rice, pasta or noodles; biscuits, muffins; prepared desserts (confectionery); prepared desserts (pastries); frozen desserts; mousse desserts; muesli desserts; souffles (desserts); beverages made from cereals, chocolate, cocoa and/or coffee; tea-based beverages; herbal beverages; frozen beverages.

Class 43: Services for providing food and drink; restaurant and takeaway restaurant services, fast food services; self-service restaurants and fast-food outlets; snack bars, cafes, canteens, cafeterias; catering services; the provision of information, including online or through mobile applications, about services for providing food and drink.

2 On 7 November 2023, the examiner raised an objection pursuant to Article 7(1)(b) and (c) in conjunction with Article 7(2) EUTMR against all the goods and services applied for. The examiner's arguments can be summarised as follows:

- The relevant Danish-, Dutch-, English-, French-, German-, Hungarian-, Italian-, Polish-, Romanian-, Slovak-, Slovenian-, Spanish- and Swedish-speaking consumer, including the professional consumer specialised in food products, would understand the sign 'KENTUCKY' as having the following meaning: a state in the southeastern United States.
- The abovementioned meaning is supported by the following dictionary references:
 - Danish: '*Kentucky er en stat i USA i regionen East South Central*' translated to the language of the proceedings: 'Kentucky is a state in the United States in the East South Central region' (information extracted from *Den Store Danske* on 7 November 2023 at <https://denstoredanske.lex.dk/Kentucky>).
 - Dutch: '*Een staat in de Verenigde Staten*' translated to the language of the proceedings: 'A state in the United States' (information extracted from *Mijn Woordenboek* on 7 November 2023 at <https://www.mijnwoordenboek.nl/puzzelwoordenboek/Kentucky/1>).
 - English: 'One of the southeastern United States' (information extracted from *Oxford English Dictionary* on 7 November 2023 at https://www.oed.com/dictionary/kentucky_n?tab=meaning_and_use#40105494).
 - French: '*État du centre-est des États-Unis, entre les Appalaches et l'Ohio*' translated to the language of the proceedings: 'State in the east-central United States, between the Appalachians and Ohio' (information extracted from *Larousse* on 7 November 2023 at <https://www.larousse.fr/encyclopedie/autre-region/Kentucky/127289>).
 - German: '*Bundesstaat der USA*' translated to the language of the proceedings: 'State of the USA' (information extracted from *Duden Wörterbuch* on 7 November 2023 at <https://www.duden.de/rechtschreibung/Kentucky>).
 - Hungarian: '*2. K., az É.-amerikai Egyesült-Államok egyike Ohio, Indiana, Illionos, Misszuri, Tennessee, Virginia és Ny.-Virginia közt*' translated to the language of the proceedings: '2. K., one of the United States of North America between Ohio, Indiana, Illinois, Missouri, Tennessee, Virginia and West Virginia' (information extracted from *Kislexikon* on 7 November 2023 at <http://www.kislexikon.hu/kentucky.html>).
 - Italian: '*Stato federato degli USA*' translated to the language of the proceedings: 'Federated state of the USA' (information extracted from *Treccani* on 7 November 2023 at <https://www.treccani.it/enciclopedia/ricerca/kentucky/?search=kentucky>).

- Polish: ‘*Stan w USA*’ translated to the language of the proceedings: ‘state in the USA’ (information extracted from *SJP PWN* on 7 November 2023 at <https://sjp.pwn.pl/so/Kentucky;4449488.html>).
 - Romanian: ‘*Stat în E.S.U.A.*’ translated to the language of the proceedings: ‘state in E USA’ (information extracted from *Dexonline* on 7 November 2023 at <https://dexonline.ro/definitie/Kentucky>).
 - Slovak: ‘*Členský štát vo východnej časti USA*’ translated to the language of the proceedings: ‘a member state in the eastern part of the USA’ (information extracted from *Slovník Juls Savba* on 7 November 2023 at <https://slovník.juls.savba.sk/?w=kentucky&s=exact&c=kcel&cs=&d=kssj4&d=psp&d=ogs&d=sss&d=orter&d=scs&d=sss&d=peciar&d=ssn&d=hssj&d=beriolak&d=noun&d=orient&d=locutio&d=obce&d=priezviska&d=un&d=pskfr&d=pskcs&d=psken#>).
 - Slovenian: ‘*Ameriška zvezna država*’ translated to the language of the proceedings: ‘American state’ (information extracted from *Fran Pravopis* on 7 November 2023 at <https://fran.si/134/slovenski-pravopis/3752315/kentucky?View=1&Query=kentucky>).
 - Spanish: ‘*El territorio descende de E. a O., desde el piedemonte de los Apalaches hasta la llanura del Mississippi*’ translated to the language of the proceedings: ‘The territory descends from E. to W., from the foothills of the Appalachians to the Mississippi plain’ (information extracted from *Ibero* on 7 November 2023 at <https://ibero.mienciclo.com/articulo/kentucky>).
 - Swedish: ‘*Förkortat KY, delstat i Mellanvästern, USA*’ translated to the language of the proceedings: ‘abbreviated KY, state in the Midwest, USA’ (information extracted from *NE Nationalencyklopedin* on 7 November 2023 at <https://www.ne.se/uppslagsverk/encyklopedi/l%C3%A5ng/kentucky>).
- The relevant consumers would perceive the contested sign as providing information that the goods for which protection is sought, such as meat and meat products, prepared meals, convenience food and snacks, processed fruits and vegetables in Class 29, and goods in Class 30, such as bee products, flavourings, sauces, baked goods, confectionery, chocolate, desserts, pastries, cakes and biscuits, originate from Kentucky, one of the states of the U.S. Furthermore, the relevant consumer would think as well that the services in Class 43 such as restaurant, takeaway and fast-food services, are services to provide the goods of Classes 29 and 30 that are originated from Kentucky. Therefore, the contested sign describes the geographical origin of the contested goods and services.
 - Given that the contested sign has a clear descriptive meaning, it is also devoid of any distinctive character and therefore ineligible for registration under Article 7(1)(b) EUTMR.

- 3 On 23 November 2023, the applicant replied to the objection and stated, in essence, the following:
- The Office did not assess whether the relevant EU consumers know the contested sign as a geographical location associated with the contested goods and services. The Office must first assess public familiarity with the geographical name. However, knowing a location does not automatically indicate it designates origin in trade. The Office must also evaluate whether the term describes the goods and services characteristics and its association with the location.
 - According to case-law, Article 7(1)(c) EUTMR allows the registration of geographical names that the public doesn't recognise as actual places, or that are unlikely to make the consumer think the goods or services come from that location. Public awareness of a location alone cannot justify refusal, nor can refusal be based solely on the theoretical possibility of production in that location.
 - The term 'KENTUCKY' has only become known among the European public because of the company Kentucky Fried Chicken (the applicant) and its goods and services. Accordingly, it would be incorrect to state in an objection letter that KENTUCKY is known for 'fried chicken', as these are the products for which the company is well-known and not the products for with the state of Kentucky is known. Consequently, there is no particular relationship between the state of 'Kentucky' and the goods and services for which protection is sought.
 - The applicant already owns the following EUTM registrations containing the term 'KENTUCKY' as their distinctive element: EUTM No 117 283, EUTM No 117 424 and EUTM No 18 682 185.
 - In case the Office maintains its objections, clear evidence is requested that the relevant EU public would create an association between 'KENTUCKY' (as a geographic term) and the contested goods and services.
- 4 In response to a communication from the Office dated 16 April 2024, the applicant confirmed on 3 May 2024 that it did not claim that the contested sign had acquired distinctiveness through use pursuant to Article 7(3) EUTMR.
- 5 On 24 September 2024, the examiner took a decision ('the contested decision') entirely refusing the contested sign, under Article 7(1)(b) and (c) EUTMR, in conjunction with Article 7(2) EUTMR. The reasons for the decision can be summarised as follows:
- It is well-established that the U.S. State of Kentucky is distinguished for its agricultural industry. Kentucky, commonly known as the 'Bluegrass region', is celebrated for its exceptionally fertile soil, one of the richest in the nation. For reference, see the following links obtained from a quick Google search:
 - <https://en.wikipedia.org/wiki/Kentucky>;
 - <https://www.britannica.com/place/Kentucky/Economy>.
 - Kentucky is recognised as a prominent region for agriculture. The state is known for its contributions to the meat and poultry sectors (including beef, pork, bacon,

sausages, and steak), dairy products (such as milk, butter, and cheese), agricultural produce (notably corn and beans) and prepared foods (including barbecue and potato-based snacks).

- <https://www.google.com/search?client=firefox-b-e&q=%22kentucky%22+%2B+%22agriculture%22>

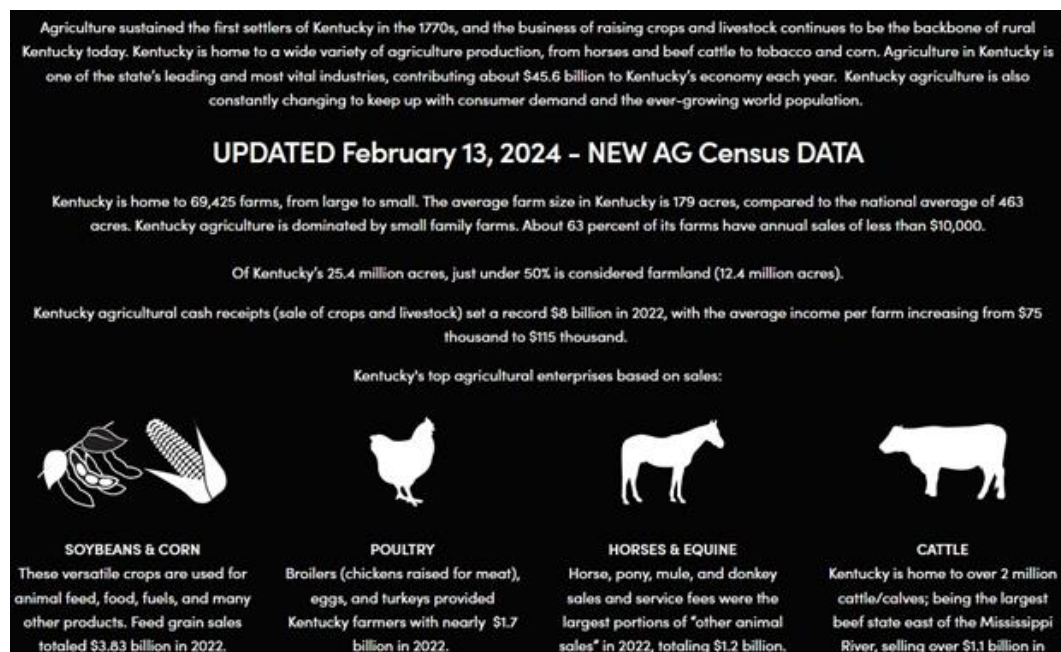
Is Kentucky a good farming state? ^

Kentucky is home to a wide variety of agriculture production, from horses and beef cattle to tobacco and corn. **Agriculture in Kentucky is one of the state's leading and most vital industries**, contributing about \$45.6 billion to Kentucky's economy each year.

What is the main agriculture in Kentucky? ^

Crops grown in the state include **corn, soybeans, hay, wheat and tobacco**. Historically, hemp has been a cash crop in the state (see hemp in Kentucky). Finished agricultural products produced in the state include Kentucky bourbon and Kentucky wine.

Kentucky is also a top producer of broiler chickens and cattle (see for instance <https://www.kyfoodandfarm.info/ky-ag-facts>):



- The abovementioned sources are not submitted as new evidence but presented solely to illustrate that 'KENTUCKY' is widely acknowledged for its agricultural industries, farming, and food production. This serves as a counterargument to the applicant's assertion that the Office did not adequately consider these factors.
- Given Kentucky's renowned agricultural industries, many of the contested goods contain or are derived from these sectors, including, but not limited to, corn (maize), soybeans, wheat, poultry and cattle.
- Consequently, the relevant public will assume that foodstuffs, beverages, and grocery items classified under Classes 29 and 30, along with the services in

Class 43 associated with these goods, bearing the name ‘KENTUCKY’, originate from this U.S. state.

- ‘KENTUCKY’ is clearly understood as a geographical name by the public. Given that it is widely known for its fertile agricultural production, food manufacturing etc., it is reasonable to assume that the relevant consumer will perceive that the contested sign indicates a place associated with the goods.
- Given Kentucky’s global reputation in the world of farming, food production etc., including its renowned agricultural industries, and the fact that such goods are produced within the state’s boundaries, the connection between ‘KENTUCKY’ and the contested goods is strong enough to establish the link between the goods and the geographical name.
- Concerning the applicant’s reference to case-law (04/05/1999, C-108/97, Chiemsee, EU:C:1999:230; 25/10/2005, T-379/03, Cloppenburg, EU:T:2005:373; 08/07/2009, T-226/08, Alaska, EU:T:2009:257; 06/10/2017, T-878/16, KARELIA, EU:T:2017:702; 25/10/2018, T-122/17, Devin, EU:T:2018:719; 02/06/2021, T-856/19, Montana, EU:T:2021:311), each case must, first of all, be assessed based on its specific circumstances. Although the Court has (partially) accepted the cases cited, there are numerous instances where the Court and the Boards of Appeal have rejected trade marks based on the geographical origin of the goods.
- For example, in the NIAGARA judgment (27/04/2016, T-89/15, NIAGARA, EU:T:2016:244), the General Court upheld the Board of Appeal’s refusal to register the word mark ‘NIAGARA’ for goods in Class 32 under Article 7(1)(b) and (c) EUTMR. The refusal was based on the mark’s potential to indicate the geographical origin of the goods, specifically water-based drinks, as Niagara is a well-known geographical location associated with water. The Court agreed that the sign was descriptive and that geographical names must remain available to describe goods or services.
- In the ‘VIVA MEXICO’ case (12/09/2019, R 2350/2018-4, VIVA MEXICO (fig.)), it has been ruled that Spanish-speaking consumers would perceive the sign as a reference to Mexico, indicating the geographical origin of the goods, particularly food items in Classes 29 and 30. Additionally, the Boards of Appeal decided that the sign ‘JAPAN WHITE’ was descriptive for ‘rice, husked rice, polished rice, cereal preparations’ in Class 30 (20/03/2018, R 0694/2017-1, JAPAN WHITE).
- It is a well-established fact, easily corroborated by a brief internet search, that ‘KENTUCKY’ is renowned for a multitude of attributes, far beyond its association with the applicant’s company. When one searches online what ‘KENTUCKY’ is known for, the results show a variety of industries and culinary and cultural highlights (<https://www.google.com/search?client=firefox-b-e&q=kentucky+known+for>; <https://en.wikipedia.org/wiki/Kentucky>; <https://www.redfin.com/blog/what-is-kentucky-known-for/>).
- The state is renowned for its rich agricultural heritage, particularly its production of bourbon, tobacco and livestock, such as poultry and beef. Kentucky is also

famous for its thoroughbred horse breeding and the prestigious Kentucky Derby, an event that draws global attention each year. In addition, Kentucky is well-known for its bourbon, accounting for 95 % of the global bourbon production. Additionally, Western Kentucky is renowned for its distinct style of Southern barbecue, while Central Kentucky is famous as the birthplace of Beer Cheese, a delicacy. These aspects are widely recognised both nationally and internationally, underscoring Kentucky's rich heritage and economic significance. The diverse industries underscore Kentucky's broader significance beyond a mere association with the applicant's undertaking.

- The Office is aware that some of the aforementioned goods, such as bourbon, are not products for which the applicant has applied. However, this is presented solely as a counterargument to the applicant's argument that the state of Kentucky is famous only for Kentucky Fried Chicken, a statement that is demonstrably inaccurate.
- The cases quoted by the applicant are not directly comparable to the contested application as 'KENTUCKY NUGGETS' (EUTM No 117 283) and 'KENTUCKY FRIED CHICKEN' (EUTM No 117 424) date back to 1996, which is 28 years ago. 'KENTUCKY FRIED CHICKEN' (EUTM No 18 682 185) differs from the contested sign, as it includes the additional verbal elements 'FRIED CHICKEN'.
- Finally, market practices, languages and examination practices evolve over time and some of the marks cited may, therefore, have been accepted as they were considered to be registrable at the time of application, though that may not be the case nowadays. Moreover, where marks are in fact registered *contra legem*, there is a mechanism in place to deal with such cases, namely that of cancellation proceedings.
- The applicant asserts that the state of Kentucky is only known due to its own business operations. Based on this assertion, the applicant was asked on 16 April 2024 whether the claim was based on acquired distinctiveness through use pursuant Article 7(3) EUTMR, to which the applicant responded that it was not. The applicant had both the right and the opportunity to present evidence of use to support a degree of distinctiveness and chose not to do so.
- With respect to the argument that the Office should provide evidence that the relevant EU consumer would create an association between 'KENTUCKY' and the goods and services in question, it is not up to the Office to show that other similar signs are used on the market.
- The applicant has not provided any specific and substantiated information showing that the contested sign has distinctive character in the relevant market sector that could disprove the Office's analysis, which is based on facts arising from practical experience generally acquired from the marketing of the contested goods and services. It may base its analysis on facts arising from practical experience generally acquired from the marketing of general consumer goods which are likely to be known by anyone and are in particular known by the consumers of those goods (15/03/2006, T-129/04, Plastikflaschenform, EU:T:2006:84, § 19). It is up


to the applicant to provide specific and substantiated information to show that the contested sign has distinctive character; it is much better placed to do so, given its thorough knowledge of the market (05/03/2003, T-194/01, Soap device, EU:T:2003:53, § 48).

- 6 On 2 October 2024, the applicant filed an appeal requesting that the contested decision be entirely set aside. On 16 January 2025, it submitted the statement of grounds of the appeal, along with Enclosures 1 to 3.
- 7 On 28 July 2025, the applicant submitted further observations on the appeal.

Grounds of appeal

- 8 The arguments raised in the applicant's statement of grounds and the further observations submitted on 28 July 2025 may be summarised as follows:
 - 'KENTUCKY' is a small U.S. state with no actual ties to the EU, highly unlikely to be known to the average EU consumer. It is not a leading destination for business or leisure, nor is it recognised for any distinctive cultural or economic significance. A recent U.S. News & World Report ranks Kentucky as 39th among U.S. states, further reflecting its limited prominence, even within the United States (see Enclosure 2):

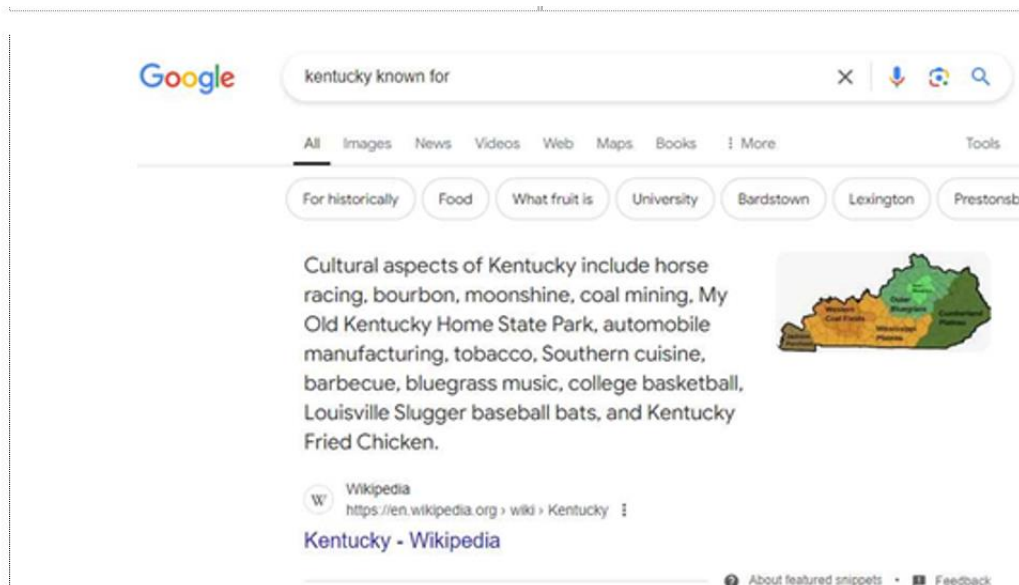
US Business Destinations <small>(8 Nov - 18 Dec)</small>		US Leisure Destinations <small>(8 Nov - 9 Jan)</small>	
Top 10	Pct Chg vs. 2019	Top 10	Pct Chg vs. 2019
New York, NY	-44%	New York, NY	-13%
Los Angeles, CA	-13%	Los Angeles, CA	15%
San Fran., CA	-44%	Miami, FL	1%
Miami, FL	5%	San Fran., CA	-26%
Boston, MA	-45%	Orlando, FL	-16%
Phoenix, AZ	84%	Washington, DC	5%
Washington, DC	-44%	Boston, MA	-11%
Atlanta, GA	-10%	Chicago, IL	-6%
Chicago, IL	-47%	Honolulu, HI	139%
		Las Vegas, NV	13%

Trips booked in the last 2 months 

- Furthermore, a blog post from 2021 written by an American living in Europe also implies that Kentucky is unknown to the vast majority of Europeans, who often associate it with stereotypes like fried chicken due to the applicant's own brand (Enclosure 2).
- As such, it is reasonable to conclude that the average European consumer would not be familiar with Kentucky as a specific geographical location.
- The internet sources cited by the examiner fail to provide convincing evidence that Kentucky is widely known, particularly among average EU consumers, for its agricultural production. These sources are not EU-based, thus lacking a direct link

to the relevant public, and often focus on cultural and industrial contributions rather than agricultural prominence.


- Overall, the evidence relied upon by the examiner is scarce and lacks relevance to the claim that ‘KENTUCKY’ is widely known for agriculture, particularly among the EU public. This is unsurprising, as no reliable source would inaccurately portray ‘KENTUCKY’ as a global agricultural hub. The cited materials primarily consist of dictionary entries, Wikipedia articles, Encyclopædia Britannica pages, and Google search results – ranging from more to less reliable sources. However, none provide a substantial or direct link between Kentucky’s reputation and the contested goods or services, as required under Article 7(1)(c) EUTMR.
- The examiner references a Google search result, with the first link directing to a *1Keydata* page (<https://state.1keydata.com/kentucky.php>), which lists various activities and industries associated with ‘KENTUCKY’. These include horse racing, bourbon, moonshine, coal mining, and the company Kentucky Fried Chicken (KFC)’s brand. Notably, agriculture is not emphasised as a defining feature of the state.
- When agriculture is mentioned, the focus often falls on crops such as tobacco, corn, and soybeans – none of which define ‘KENTUCKY’’s identity globally or within the EU, nor are they crops for which ‘KENTUCKY’ is a top producer. The source also highlights that ‘KENTUCKY’ ranks in the lower half of U.S. states by population, further diminishing its overall prominence. Additionally, some claims in the linked articles are outdated, with data dating back to 2010, making them irrelevant to the current assessment. This fails to satisfy the evidentiary standard under Article 7(1)(c) EUTMR, which requires a direct and immediate association between the location and the goods/services.



People also ask


- What is the state of Kentucky best known for?
- Why is Kentucky so famous?
- What is the most famous thing in Kentucky?
- What is Kentucky famous for producing?

Feedback

 1Keydata
<https://state.1keydata.com/kentucky>


Kentucky Facts - Alphabetical List Of 50 States

Kentucky is known for: Horse racing; Famous bourbon distilleries; Coal mining ... **Kentucky is famous for the following foods:** Burgoo; Hot Brown; Derby Pie ...

 Redfin
<https://www.redfin.com/blog/what-is-kentucky-know...>


What is Kentucky Known For? Facts, Foods & Landmarks

12 Jun 2024 — A true representation of the Bluegrass State, **Kentucky** is home to picturesque rolling hills, charming small towns, and vibrant cities.

 U.S. News & World Report
<https://www.usnews.com/News/BestStates>


10 Things to Know About Kentucky

22 Aug 2019 — The Bluegrass State is home to music, horse racing and bourbon.

 TheStreet
<https://www.thestreet.com/INVESTING/STOCKS>


13 Things Kentucky Is Best Known for Other Than the ...

6 May 2017 — Think, **Kentucky** Derby, bourbon, KFC, the Louisville Slugger and Muhammad Ali, and you get a slice of what this lush state offers.

 Rent.com
<https://www.rent.com/Rent/Blog/ApartmentHunting>

What is Kentucky Known For?

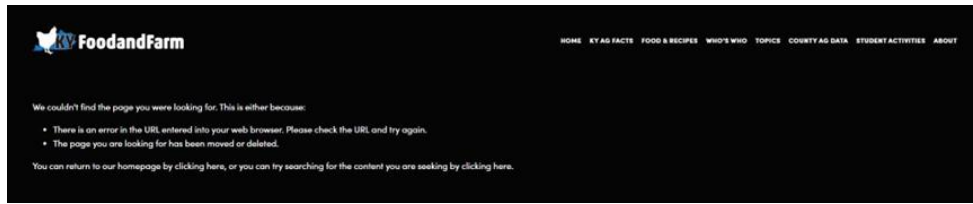
26 Dec 2023 — **Kentucky** is known around the world for its horse racing prestige, with the **Kentucky Derby** being a premier event attracting visitors from across ...

 University of Louisville Libraries
https://library.louisville.edu/gov_states/kyfacts

- What is more, as can be seen in the screen capture above, at the top of the search page the company brand, is listed among the top things for which the state is known.

- In addition, the above search (<https://www.google.com/search?client=firefox-b-e&q=%22kentucky%22+%2B>) further fails to advance the examiner’s case. The search simply aggregates broad mentions of ‘KENTUCKY’ across diverse industries, without establishing that agriculture is a defining or widely recognised feature of the state’s identity, particularly within the EU. Instead, the results focus on areas such as recent news, links to the Kentucky Tourism website and state government pages, recommended attractions, videos about ‘KENTUCKY’, the University of Kentucky, and Kentucky Horsewear.
- The Britannica entries provide a descriptive account of activities in ‘KENTUCKY’ but fail to establish that the state is recognised for agriculture, either in the U.S. or globally. While they outline that agriculture exists in the state, they do not claim it as a defining characteristic. This lack of a direct association with agriculture renders these entries insufficient to support the examiner’s claim that ‘KENTUCKY’ is widely known for farming or agricultural industries among the EU public. (See the decision of 14/10/2019, R 2394/2018-4 MONTANA).
- Similarly, while the Encyclopædia Britannica and the other dictionaries cited by the examiner may contain information about ‘KENTUCKY’’s activities, there is no evidence that such information translates to recognition among the relevant EU public. Encyclopaedia entries or dictionary definitions provide general descriptions but cannot alone establish the familiarity or perception of a geographical location by the EU public. The examiner’s reliance on such sources is misplaced, as these references fail to demonstrate the immediate and direct association required under Article 7(1)(c) EUTMR to justify the refusal.
- Wikipedia, as an open-source platform, cannot serve as reliable evidence, as it is editable by the general public without rigorous fact-checking. Even within the article cited, agriculture is mentioned only as one of several economic activities, while far greater emphasis is placed on industries like bourbon production, horse racing, and auto manufacturing. Bourbon, in particular, is highlighted as more significant, whereas agriculture is treated as a secondary element. However, this is irrelevant for the present proceedings as bourbon is not part of the goods claimed under the specification. This demonstrates that Kentucky’s identity is tied more strongly to non-agricultural sectors, further undermining the examiner’s argument. In any case, none of the areas mentioned are known to the relevant EU public.
- Similarly, the blog post from Redfin.com discusses ‘KENTUCKY’’s cuisine, bourbon industry, and horse breeding, but again does not place significant emphasis on agriculture as making the state globally famous. While agriculture may contribute to ‘KENTUCKY’’s broader cultural and economic identity, it is treated as a component rather than the defining feature that makes ‘KENTUCKY’ recognisable on a global scale. The examiner’s attempt to rely on such sources does not provide a solid basis to conclude that ‘KENTUCKY’ is descriptive of the contested goods and services under Article 7(1)(c), especially considering that it rather refers to ‘KENTUCKY’ in the context of non-agricultural sectors. In any event, for the reasons discussed previously and further below, none of the areas mentioned would actually be known to the relevant EU public.

- The examiner references to an unavailable source (<https://www.kyfoodandfarm.info/ky-ag-facts>), which cannot be verified.



- However, based on the screenshot provided, the source merely presented basic facts about ‘KENTUCKY’'s agricultural activity. Hence, it fails to demonstrate that ‘KENTUCKY’ is widely recognised or globally renown in this sector.
- In conclusion, none of the sources used by the examiner sufficiently demonstrate that ‘KENTUCKY’ is widely known for agriculture or food production – much less to the extent that the average EU consumer would make this association. As such, these sources are inconclusive and fail to substantiate the claim that the contested sign is descriptive of the contested goods/services.
- The contested sign is not widely recognised by the average EU consumer for its agricultural significance. For the refusal under Article 7(1)(c) EUTMR to stand, the Office must demonstrate that a significant portion of the relevant public across the EU associates ‘KENTUCKY’ with agriculture. This standard has not been met.
- As explained in the Britannica (also cited by the examiner), ‘KENTUCKY’ is a small, predominantly rural state with limited global visibility in agriculture.

Settlement patterns

From the beginning, Kentucky has been a strongly rural state of small towns and crossroads. In the early 21st century about half of the state's population remained rural, despite pronounced migration from rural to urban areas in the second half of the 20th century.



Louisville, Kentucky

- The examiner's assertions that ‘KENTUCKY’ has a ‘global reputation in the world of farming, food production’ and is renowned for ‘its renowned agricultural industries’ are based on exaggerated statements that lack any real foundation. ‘KENTUCKY’ is not among the top agricultural states in the U.S. In contrast, leading U.S. agricultural states such as Iowa, Illinois, Nebraska, and Texas consistently rank at the top in agricultural output, particularly in sectors like meat, poultry, dairy, and crops such as corn and soybeans. These states are regularly highlighted in rankings, reports, and public discussions about U.S. agriculture. By contrast, ‘KENTUCKY’ does not feature at all in such contexts, whether in U.S. and less so in global agricultural discussions.

- Internet search results further confirm this discrepancy. Searches for ‘top agricultural states in the U.S.’ consistently list the aforementioned states as leaders, while ‘KENTUCKY’ rarely, if ever, appears in such lists. If ‘KENTUCKY’ is not recognised as a top agricultural state even within the U.S., it is implausible to argue that it enjoys global recognition for agriculture or is widely known by the EU public for this purpose.

a) Kentucky is not renowned for agricultural industries

- The examiner claims that ‘KENTUCKY’'s ‘agricultural industries are renowned’, implying a significant level of global prominence, yet all publicly available rankings show that ‘KENTUCKY’ is not a top agricultural state, or a top producer of corn, soybeans, wheat, poultry, or cattle, making the examiner’s statement inaccurate and unreliable, unfit to justify a refusal of the contested sign. More details are available below and attached as Enclosure 3.



What US states produce the most food? (Ranking 1-50)

California ranks first in the U.S. for agricultural cash receipts followed by Iowa, Texas, Nebraska and Illinois.

April 12, 2013

2 Min Read



JEN KOUKOL



Story updated April 12, 2024

How much does agriculture contribute to the economy? Short story: Billions. Upon billions. When you total the cash receipts for all ag commodities, California is the leader, raking first with a total of more than \$58 billion, according to USDA data. Rounding out the top 10 are:

1. California, \$58 billion
2. Iowa, \$44.7 billion
3. Nebraska, \$31.6 billion
4. Texas, \$29.7 billion
5. Illinois, \$27.9 billion
6. Minnesota, \$26 billion
7. Kansas, \$23.5 billion
8. Indiana, \$18.3 billion
9. North Carolina, \$16.8 billion
10. Wisconsin, \$16.6 billion

See the ranking of the full 50 states at the [USDA ERS website](#).

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Kentucky is not a top state for beef production

Ranking of States with the Most Cattle: Texas Leads the Herd

In the vast landscape of American agriculture, the cattle industry stands as a pillar of strength, and the United States boasts a substantial cattle population. As we delve into the rankings of states with the most cattle, it's evident that Texas takes the lead, followed by Nebraska, Kansas, California, and Oklahoma. These states collectively play a pivotal role in shaping the nation's cattle industry.

1. Texas: The Cattle Giant

Unquestionably, Texas claims the top spot in this cattle-centric lineup. With a massive cattle population of 12,000,000, the Lone Star State reigns supreme, representing a staggering 13.77% of the total U.S. cattle population. Texas's vast expanse and robust ranching traditions make it the undisputed cattle giant of the nation.

2. Nebraska: A Strong Second

Nebraska, often associated with rolling plains and fertile farmland, secures the second position with a substantial cattle count of 6,250,000. This figure accounts for 7.17% of the U.S. cattle population, highlighting the state's significant contribution to the cattle industry.

3. Kansas: Cattle Country

Kansas, known for its sprawling prairies, comes in closely behind Nebraska with 6,150,000 head of cattle, representing 7.06% of the national total. The Sunflower State's rich agricultural heritage continues to thrive with its substantial cattle presence.

4. California: The Western Cattle Hub

On the western frontier, California proudly holds the fourth rank with 5,100,000 cattle, constituting 5.85% of the U.S. cattle population. California's diverse agricultural landscape and favorable climate make it a prominent hub for cattle ranching in the West.

5. Oklahoma: A Cattle Powerhouse

Oklahoma secures the fifth spot with a robust cattle population of 4,700,000, making up 5.39% of the national herd. The Sooner State's dedication to cattle farming ensures its continued prominence in the industry.

Beef Production by State 2024

The **United States** is the world's largest producer of beef, primarily high-quality, grain-fed beef. Beef farms and ranches represent over 30% of U.S. farms, making up the single largest U.S. **agricultural** sector. The U.S. beef industry is roughly divided into **two sectors**: cow-calf operations and cattle feeding. The focus of the cow-calf operation is to maintain a herd of beef cattle to raise calves. The cattle feeding sector focuses on preparing cattle for various means of production. Beef cattle are raised in all 50 U.S. states. As of 2023, there are 28,917,900 beef cows in the United States. This is down from one year ago. **Texas** has the most beef cows, followed by **Oklahoma, Missouri, and Nebraska**.

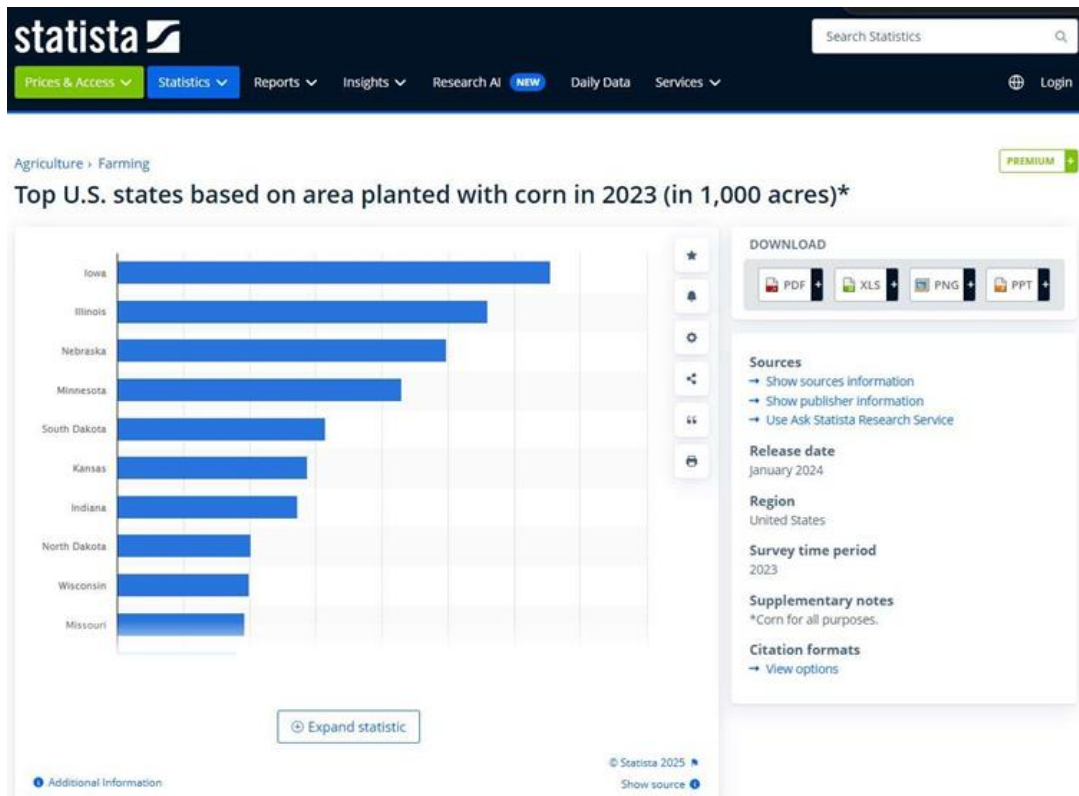
Kentucky is not a top soybean producing state

Soybean Production by State 2024

Soybean production in the **United States** is a significant part of the country's agriculture sector, with several states contributing substantially to the overall output. The leading soybean-producing states include **Illinois, Iowa, Minnesota, Indiana, and Ohio**. These states benefit from a combination of favorable climate conditions, fertile soils, and well-established agricultural infrastructure that supports the large-scale cultivation of soybeans. Soybeans are used in various food products, animal feed, and industrial applications, such as biodiesel and ink production, which has driven much of the industry's growth.

Kentucky is not a top corn producing state

Corn production plays a major role in the U.S. economy, as the grain can be used for food, seed, and industrial purposes. The United States also exports about 38% of the world's total corn exports to other countries. In 2018, the United States exported approximately \$12.9 billion of corn. The ten states that produce the most corn in the United States are Iowa, Illinois, Nebraska, **Minnesota, Indiana, Kansas, South Dakota, Ohio, Missouri, and Wisconsin**.

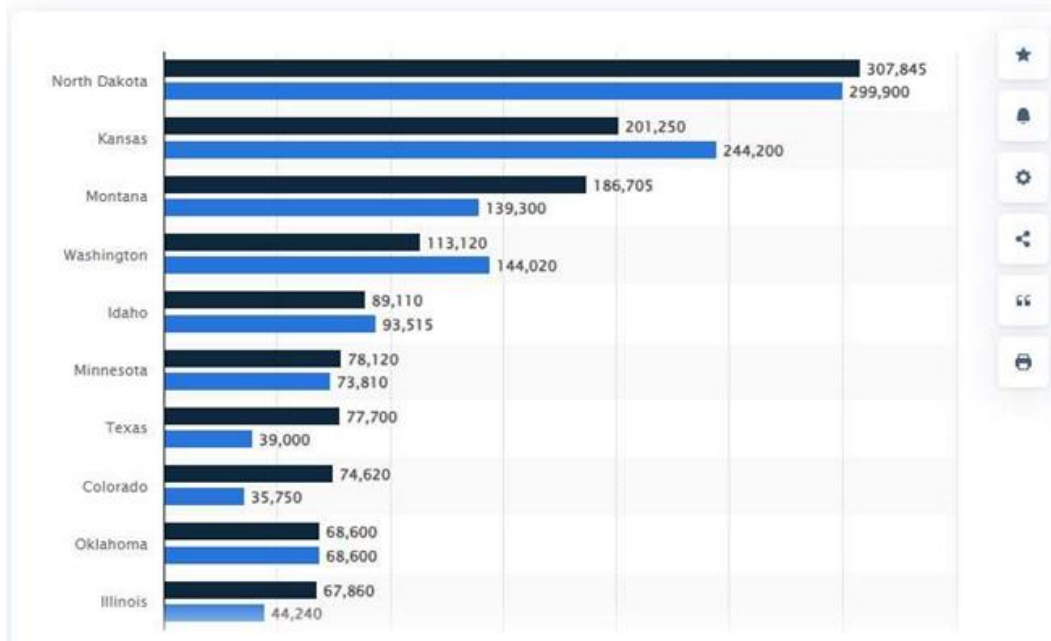


Kentucky is not a top wheat producing state either

Wheat Production by State 2024

Wheat production in the **United States** is a vital part of the country's agriculture sector, with several states contributing significantly to the overall output. The leading wheat-producing states include **North Dakota**, **Kansas**, **Washington**, **Montana**, and **Idaho**. These states benefit from a combination of favorable climate conditions, fertile soils, and well-established agricultural infrastructure that supports the large-scale cultivation of wheat. Wheat is a staple food in many diets worldwide and is used in a wide variety of food products, such as bread, pasta, and pastries, which has driven much of the industry's growth.

Leading wheat producing U.S. states in 2022 and 2023 (in 1,000 bushels)



b) *Kentucky and chicken: a KFC-driven association*

- ‘KENTUCKY’'s association with poultry is overwhelmingly linked to the company Kentucky Fried Chicken International Holdings LLC's brand, Kentucky Fried Chicken (KFC), rather than any inherent agricultural reputation. The company global branding efforts drive this recognition – not the state's agricultural activity. The examiner's reliance on ‘KENTUCKY’'s supposed prominence in poultry production is unfounded. The state is not a leading producer of chicken or poultry products compared to major U.S. poultry-producing states like Georgia or Arkansas (as also shown in Enclosure 3).

Chicken Production by State 2024

Chicken production in the United States is a significant part of the country's agriculture sector, with many states contributing to the overall production levels. Some of the leading chicken-producing states include Georgia, Alabama, Arkansas, North Carolina, and Mississippi. These states have a combination of favorable climate conditions, expansive agricultural land, and well-established poultry industries, allowing them to produce large quantities of chicken for both domestic consumption and export. The US chicken industry is primarily focused on broiler chickens, which are raised for their meat, while egg-laying hens are a separate segment of the poultry industry.

- Instead, it is the company brand that has cemented ‘KENTUCKY’'s connection to ‘chicken’ in the minds of consumers worldwide. The company branding is so powerful that ‘KENTUCKY’ evokes KFC far more easily than any possible agricultural connotation.

Is Kentucky known for their chicken?

When it comes to fried chicken, the Bluegrass state is legendary. After all, this is the birthplace of Kentucky Fried Chicken.

- The examiner’s claim that ‘KENTUCKY’ is globally recognised for its agricultural heritage is also overstated and irrelevant to the goods and services at issue. While the state may be known within the U.S. for bourbon production, thoroughbred horse breeding, and the Kentucky Derby, these industries lack any connection to the goods in Classes 29 and 30 or the restaurant services in Class 43.
- As already demonstrated above, ‘KENTUCKY’’s livestock and poultry production also pale in comparison to leading U.S. agricultural states like Iowa, Texas, and Georgia, which are far more recognised for these sectors. Similarly, Southern barbecue and Beer Cheese are niche, regional specialties with no significant presence in the EU; if they were as renowned as claimed, there would be dedicated outlets, public demand, or culinary trends in the EU, but there are none. As for the so-called ‘Bluegrass region’, while it may be recognised in the U.S. for its fertile soil, this association does not translate to global or European fame, nor does it establish a link with the contested goods and services.
- In conclusion, the examiner’s view of ‘KENTUCKY’ as a region widely known for its agricultural significance is fundamentally distorted and unsupported by evidence. Assertions of ‘exceptionally fertile soil’, ‘prominent region for agriculture’, ‘renowned agricultural industries’ and similar claims lack factual substantiation, and the public’s perception of ‘Kentucky’ is undeniably shaped by KFC’s global branding rather than any inherent agricultural reputation.
- Allowing a decision based on such erroneous and unsubstantiated premises to stand not only undermines the factual integrity required in trade mark assessments, but also contravenes the established legal framework under Article 7(1)(c) EUTMR. This analysis further underscores the lack of a descriptive connection between ‘KENTUCKY’ and the contested goods and services. The relevant EU public cannot establish the required association, given the absence of any meaningful link between ‘KENTUCKY’ and agriculture.

Case-law analysis

- The examiner’s reasoning is fundamentally undermined by established case-law, which consistently demonstrates that even locations with some level of activity in a specific sector are not automatically associated with those activities in the minds of the relevant public.

a) Clear and credible basis for associations

- Case-law emphasises that associations between a geographical name and the contested goods or services must be realistic, with a clear and reliable basis. For instance, gambling for Las Vegas, pasta or wine for Italy, and fragrances or art for France, are rooted in cultural, historical, or economic realities that resonate with the relevant public. These associations are further reinforced by global prominence, widespread media exposure, and consumer familiarity.
- While recent case-law has applied stricter standards, these decisions generally remain logically consistent when assessed in light of the facts. Notably, most recent cases involve EU locations, such as France, Portugal, Marbella, and Delphi, which

possess historical ties or represent significant touristic attractions, or non-EU locations like Tobago and Acapulco, where a tangible link to the goods or services was identified. For instance, see the decision of 17/10/2023, R 1368/2023-1, FRANCE, where France's reputation as a hub for luxury goods, including fragrances, cosmetics, and art, made the association with scented candles more plausible.

- Whether these links are strong enough to meet the threshold is debatable, as such cases may set an unfairly high bar. However, in the present case, no such link exists. Any recognition of 'KENTUCKY' comes exclusively from the company's own brand, and there is no evidence of 'KENTUCKY' being famous for agriculture or otherwise intrinsically tied to the goods and services at issue.

b) The facts of the present case

- By contrast, 'KENTUCKY' lacks the prominence or connections seen in these examples. It is neither an EU location nor a prominent non-EU region such as other U.S. states (New York or Los Angeles) which undoubtedly enjoy global recognition. 'KENTUCKY' is not historically relevant, memorable for any particularly publicly followed events, or linked to agriculture in the same way Japan is to rice or France is to luxury goods. Furthermore, 'KENTUCKY' does not have a significant presence in global pop culture that could create such associations in the minds of the EU public. As held in Montana, there is no particularly known location or city in Montana, which equally applies to 'KENTUCKY', that would render it more 'popular'.
- Therefore, the examiner's reasoning disregards the principles established by case-law, failing to evaluate whether the connection between 'KENTUCKY' and the contested goods/services is immediate, credible, or realistic.

c) Distinguishing the cases cited by the examiner

- The examiner's statement that 'there are numerous instances where the Court and the Boards of Appeal have rejected trademarks based on the geographical origin of the goods' is misguided, as it fails to acknowledge that there are numerous cases where marks have been both rejected and accepted based on geographical origin. Each case must be assessed on its own merits, and decisions should be distinguished and compared rather than blindly applied or merely listed, as done in the decision issued.
- The examiner then references only three cases from the vast body of case-law in support of its argument, neither of which is comparable to the present case:
 - The NIAGARA case is fundamentally different from the present case. In NIAGARA, the General Court upheld the refusal because of the globally recognised and inherent link between Niagara Falls and water, directly relating to Class 32 goods (water-based drinks). This connection was immediate for consumers.

In contrast, ‘KENTUCKY’ is neither globally recognised nor inherently linked to the goods or services in Classes 29, 30, or 43. The examiner has failed to establish a direct and specific association between Kentucky and the applied-for goods and services, relying instead on speculative and unsupported claims. Unlike NIAGARA, where the link was natural and less far-fetched, any connection between Kentucky and the relevant goods or services is far-fetched and unsubstantiated.

- VIVA MEXICO: The sign VIVA MEXICO was deemed descriptive for goods such as processed beans, pickled jalapeños, cheese sauces, taco shells, and taco dinner kits. This decision is logical because Mexico, as a country, is widely associated with these specific food products. Mexican cuisine enjoys international renown, and the goods claimed have a clear cultural and historical connection to the region.
- JAPAN WHITE: The mark JAPAN WHITE was found descriptive for rice products, a conclusion that is well founded given Japan’s globally established reputation for rice cultivation. Premium rice varieties, such as sushi rice, are deeply ingrained in Japan’s agricultural and culinary traditions, creating a link between the mark and the goods in question.

d) Why Kentucky is not comparable

- Unlike the above examples, ‘KENTUCKY’ is neither a country nor a globally prominent state. It lacks the cultural, economic, or historical significance necessary to establish a credible link to the contested goods and services. The refusal overlooks that ‘KENTUCKY’’s recognition within the EU stems largely from the company brand (KFC), rather than any intrinsic association with agriculture.
- Furthermore, additional case-law highlights the flaws in the examiner’s reasoning:
 - To begin with, in DEVIN (T-122/17, § 39), the General Court held that the presence of a location on the internet does not suffice to establish public recognition. The Court noted that such reasoning would unrealistically assume consumers could know every town in the world through simple browsing. This aligns with the fact that the average EU consumer would likely not even place Kentucky on a map, let alone associate it with agriculture or any other particular characteristics.
 - Furthermore, the Board of Appeal in PORTOBELLO (Case R 841/2010-2) found that, although the location referred to a relatively small street in London, it was particularly well-known to consumers in the United Kingdom. This recognition justified the conclusion that the name was sufficiently familiar to the relevant public. In contrast, ‘KENTUCKY’ does not carry comparable recognition within the European Union. Unlike Portobello, which is linked to a specific, identifiable landmark that holds cultural and economic significance, ‘KENTUCKY’ is not widely known to the EU public for its agricultural activities or any distinct feature at all relevant to the applied-for goods and services.

- In CLOPPENBURG (T-379/03, § 43-46), the General Court held that the town, with approximately 30 000 inhabitants, was only slightly or moderately familiar to the German public. The Court noted that it lacked fame for any specific attraction or economic activity and countered the Board’s argument by observing that Cloppenburg was not even mentioned in weather forecasts, unlike nearby cities. The situation in the present appeal is analogous to CLOPPENBURG: Kentucky is not a prominent location and lacks any defining economic activity or attraction that would resonate with the EU public. If EU consumers were interested in the news in the U.S., they would likely be interested in the latest developments in the top states, not ‘KENTUCKY’.
- As these cases demonstrate, weak or incidental connections between a location and an economic activity cannot support a finding of descriptiveness. ‘KENTUCKY’'s agricultural activities, such as tobacco or corn production, do not define its reputation globally or within the EU.

e) Critical errors in the examiner’s approach

- The examiner provides no concrete evidence – such as market data or publicly available statistics from reliable publications – to substantiate the claim that ‘KENTUCKY’'s agricultural contributions are widely recognised by EU consumers. Instead, the refusal conflates the mere existence of economic activities with global recognition, which is a critical error.

f) Imposing an impossible burden on applicants

- Allowing refusals based on biased or inaccurate internet search results would set a dangerous precedent, requiring applicants to prove the impossible: that no geographical name could ever be linked to certain goods or services. This approach contradicts the principles underpinning trade mark law and must not be upheld.

g) Conclusion

- Without evidence demonstrating that Kentucky’s agricultural activities are widely recognised by the relevant EU public or are directly linked to the contested goods and services, the examiner’s reasoning fails to meet the threshold under Article 7(1)(c) EUTMR. As shown by case-law, speculative or incidental associations are insufficient to justify refusal.

h) Lack of established association between ‘KENTUCKY’ and the goods and services claimed

- The goods and services concerned include food products (Classes 29 and 30) and restaurant services (Class 43). Given these, it is important to note, as emphasised in the decision of (08/03/2023, R 2186/2022-4, LEON), that consumers often prefer locally sourced or regionally produced goods over imported ones.

- However, unlike León, which may be associated with specific food products in Spain, ‘KENTUCKY’ has no established connection to the goods and services applied for within the EU. There is no tradition, market trend, or reasonable consumer expectation linking these goods or services to ‘KENTUCKY’. The EU public would not anticipate that the applied-for goods originate from ‘KENTUCKY’ or even from the United States, given the natural preference for local EU-sourced products.
- Furthermore, it is entirely unrealistic to claim that EU consumers would expect goods like poultry or other agricultural or food products to be sourced from the U.S., as such imports are highly impractical due to significant costs and logistical challenges and also extremely rare due to EU regulatory requirements, making them effectively impossible in many cases.
- Importantly, even if (hypothetically) the contested sign could be deemed descriptive for goods in Classes 29 and 30 – although this is certainly not the case – this reasoning cannot reasonably extend to services in Class 43. For restaurant and catering services, the connection to ‘KENTUCKY’ as a geographical location is even more far-fetched. The examiner has provided no evidence to suggest that ‘KENTUCKY’ is renowned for any particular type of dining, restaurant culture, or catering services that could reasonably be seen as influencing or being replicated in the EU. Unlike a place such as France, which is famous for fine dining and gastronomy, ‘KENTUCKY’ holds no similar reputation for restaurant or catering services that would make such a connection plausible. See the sentence of 14/12/2022, T-526/20, Devin, EU:T:2022:816, where the General Court annulled the Board of Appeal’s decision for failing to assess the existence of an association for certain contested goods. Similarly, in this case, the examiner has provided no evidence to establish any link between ‘KENTUCKY’ and restaurant or catering services in Class 43. Without such a connection, the refusal under Article 7(1)(c) EUTMR cannot stand, as there is no basis to deem the contested sign descriptive for these services.
- Moreover, the contested sign is inherently distinctive for these services, in particular for restaurant services, because it serves as an indicator of commercial origin, unconnected to any geographical association. The examiner has failed to demonstrate otherwise or provide any substantive basis for the claim that ‘KENTUCKY’ holds relevance to the provision of restaurant and catering services in the EU. As such, the refusal is unsupported and incorrect.

Article 7(1)(b) EUTMR cannot apply either

- Given that ‘KENTUCKY’ has no meaning in relation to the contested goods and services, the contested sign possesses the necessary inherent distinctiveness required under Article 7(1)(b) EUTMR. A mark cannot be deemed devoid of distinctive character where it is capable of functioning as an indicator of commercial origin, which is clearly the case here. Consequently, Article 7(1)(b) does not apply in this instance.

Acquired distinctiveness claim

- The comment in the refusal regarding the company decision not to invoke acquired distinctiveness under Article 7(3) EUTMR is unnecessary and inappropriate. The applicant chose not to pursue this route due to the costs and evidentiary burden of proving acquired distinctiveness across the EU, as ‘Kentucky’ is inherently distinctive for the contested goods and services. This decision cannot and should not be held against the applicant, as acquired distinctiveness is a discretionary claim and irrelevant to the assessment of inherent distinctiveness, which remains the central issue in this case.

Prior registrations

- Lastly, the examiner wrongly and superficially dismisses the company prior registrations, including the 2022 ‘KENTUCKY FRIED CHICKEN’ registration (EUTM No 18 682 185), without adequate analysis.

Filing number	Trade mark	Filing date	Reference	Nice Classification	Owner	Status
000117283	KENTUCKY NUGGETS	01/04/1996	CE-19960303	29, 30, 42	Kentucky Fried Ch...	Registered
000117424	KENTUCKY FRIED CHICKEN	01/04/1996	CE-19960295	29, 30, 42	Kentucky Fried Ch...	Registered
018682185	KENTUCKY FRIED CHICKEN	05/04/2022	83574523	9, 35, 41, 43	Kentucky Fried Ch...	Registered

There are also two EUTMs for KENTUCKY (word) in the name of third parties, namely:

011061504	KENTUCKY	23/07/2012	T2169.2169.14VB/GC/mgr	32	Alltech's Beverage...	Registered
018014958	Kentucky	25/01/2019	719/2018	11	hagebau Handels...	Registered

- These EUTM registrations are clearly relevant, as they incorporate the allegedly descriptive term ‘KENTUCKY’ for the same or highly similar goods and services. The examiner focused only on older registrations while conveniently ignoring the 2022 registration, which was decided under the same applicable legislation and within a comparable linguistic and market context. Consistency in decision-making demands that these precedents be substantively addressed, rather than dismissed with a standard paragraph.

Judgments of the General Court in cases T-105/23 and T-106/23 (ICELAND)

- The recent judgments of 16/07/2025, T-105/23, Iceland, EU:T:2025:729 and 16/07/2025, T-106/23, Iceland (fig.), EU:T:2025:730 are inapplicable to the present case.
- The Iceland judgments rest on specific findings about Iceland’s geographical and economic profile, including its European Economic Area (‘EEA’) membership and trade with the European Union (‘EU’). None of this applies to Kentucky.

- The General Court’s reasoning depends on the place being known, or reasonably expected to be known, for producing the goods or providing the services concerned. That threshold is not met in the present case.
- A central element of the Iceland judgment is the General Court’s finding that Iceland has an established capacity to produce and supply a wide range of goods, including foodstuffs and agricultural products. This conclusion was based on various factual considerations and supporting evidence presented during the proceedings, including Iceland’s participation in the EEA, its active trade with the EU, and its general reputation as a productive and self-sufficient economy.

By contrast, the statements made by the examiner in the present case are either factually incorrect or unsupported by evidence. Kentucky is not known internationally for agriculture, nor is it recognised by the average EU consumer as a source of the goods claimed – let alone of the services. As shown in the evidence filed, Kentucky does not rank among the leading agricultural states within the United States and is certainly not regarded as a global producer or exporter (Enclosure 3). Kentucky does not appear among the top ten U.S. exporters of agricultural products (Enclosure 3), minimally contributing to the overall export landscape, if at all. It is neither recognised for, nor realistically capable of becoming known for, supplying the relevant goods to the EU. Any such association would be purely speculative and unsupported by the record.

- There is no evidence to suggest that Kentucky is known to a significant part of the EU public, or that it would be associated with the goods or services applied for. Unlike Iceland, there is no extensive trade relationship between Kentucky and the EU – on the contrary, Kentucky ranks at the lower end of U.S. states in terms of EU trade volume, especially in agriculture.
- Kentucky is not known for strong economic or environmental credentials, nor does it ‘boom’ in any of the relevant sectors. Unlike Iceland, which enjoys a strong international reputation as an environmentally sustainable and agriculturally active nation, Kentucky is not considered one of the leading U.S. agricultural states, as demonstrated in the evidence on file. The Office has submitted no credible or objective evidence to the contrary.
- Furthermore, at paragraphs 48–51, the General Court in Iceland analysed in detail the types of goods Iceland produces or could reasonably be expected to produce. None of that applies here. Many of the goods claimed by the application concerned here are not produced in Kentucky at all; others are produced in quantities so limited that they barely meet internal demand. There is no reasonable expectation that such goods would be sourced from Kentucky. The figures for Kentucky show that it lacks the productive capacity even for domestic self-sufficiency, let alone for exports. The volumes are so minimal that the state cannot be considered known for these products.
- While agriculture may be one of the areas of employment in Kentucky, that fact alone is irrelevant. As the evidence confirms, this does not translate into national prominence, let alone international recognition – particularly not within the EU.

- In Iceland (paragraphs 70-75), the General Court considered that the mark had a descriptive character for services in Class 35, such as retail, marketing, and promotional services, because the goods were produced in Iceland and the applicant did not dispute that factual background. The Court further noted that consumers might reasonably expect goods to be marketed through services linked to that region.
- That reasoning does not apply to the present case to the services in Class 43. As already set out, there is no expectation that the goods – such as poultry or other food products – would originate from Kentucky or be marketed through services connected to it. The regulatory and geographical context is entirely different. As rightly recognised in the decision of 08/03/2023, R 2186/2022-4, LEON, EU consumers prefer locally sourced or regionally produced goods, especially in the food sector. Kentucky has no such relevance or recognition for the EU public.
- Kentucky is not known for any particular culinary tradition, restaurant culture, or catering services, either within the United States or abroad. Any connection between ‘Kentucky’ and the contested restaurant and catering services is disputed. The Office has not submitted any evidence supporting such a connection, which is unsurprising given none exists. there is no factual basis – either in public perception or objective data – to connect Kentucky’ with services in Class 43 (see Enclosure 3).
- Furthermore, Kentucky is not among the top ten U.S. goods or service exporters to the EU. Even where some service exports are recorded, they are modest in scale and economically marginal, and in any case, unrelated to restaurant or catering services.

Reasons

- 9 All references made in this decision to the EUTMR should be seen as references to Regulation (EU) No 2017/1001 on the European Union trade mark (OJ 2017 L 154, p. 1), codifying Regulation (EC) No 207/2009 as amended, unless specifically stated otherwise.
- 10 The appeal complies with Articles 66, 67 and Article 68(1) EUTMR. It is admissible.

Article 7(1)(c) EUTMR

- 11 Under Article 7(1)(c) EUTMR, trade marks which consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, geographical origin, time of production of the goods (services may be disregarded here) or other characteristics of the goods or services, cannot be registered.
- 12 According to settled case-law, Article 7(1)(c) EUTMR pursues an aim in the public interest, namely, that descriptive indications or signs relating to the characteristics of goods or services in respect of which registration is sought may be freely used by all. That provision prevents, therefore, such signs and indications being reserved to one undertaking alone because they have been registered as trade marks (04/05/1999,

C-108/97 & C-109/97, Chiemsee, EU:C:1999:230, § 25; 15/10/2003, T-295/01, OLDENBURGER, EU:T:2003:267, § 29).

- 13 The fact that the EU legislature chose to use the word ‘characteristic’ highlights the fact that the signs referred to in Article 7(1)(c) EUTMR are merely those which serve to designate a property, easily recognisable by the relevant public, of the goods or the services in respect of which registration is sought. Accordingly, a sign can be refused registration on the basis of that provision only if it is reasonable to believe that it will actually be recognised by the relevant public as a description of one of those characteristics (27/04/2016, T-89/15, NIAGARA, EU:T:2016:244, § 14; 21/02/2024, T-756/22, AMAZONIAN GIN COMPANY, EU:T:2024:101, § 24).
- 14 For a sign to be considered as descriptive, there must be a sufficiently direct and specific link or relationship between the sign and the goods and services in question to enable the public concerned to immediately perceive, without further reflection, a description of the goods and services in question or one of their characteristics (27/02/2002, T-106/00, STREAMSERVE, EU:T:2002:43, § 40; 22/06/2005, T-19/04, PAPERLAB, EU:T:2005:247, § 25).
- 15 As regards more specifically signs or indications that may serve to designate the geographical origin or destination of the categories of goods, or the place of performance of the categories of services, in respect of which the protection of an international registration designating the European Union is sought, especially geographical names, it is in the public interest that they remain available, not least because they may be an indication of the quality and other characteristics of the categories of goods or services concerned, and may also, in various ways, influence consumer preferences by, for instance, associating the goods or services with a place that may evoke positive feelings (04/05/1999, C-108/97 & C-109/97, Chiemsee, EU:C:1999:230, § 26; 06/09/2018, C-488/16 P, NEUSCHWANSTEIN, EU:C:2018:673, § 37; 15/01/2015, T-197/13, MONACO, EU:T:2015:16, § 47; 27/04/2016, T-89/15, NIAGARA, EU:T:2016:244, § 15; 06/10/2017, T-878/16, KARELIA, EU:T:2017:702, § 15; 23/02/2022, T-806/19, Andorra (fig.), EU:T:2022:87, § 19; 15/07/2025, T-105/23, Iceland, EU:2025:T:729, § 25; 15/07/2025, T-106/23, Iceland (fig.), EU:2025:T:730, § 25).
- 16 Furthermore, registration of geographical names as trade marks is not permitted if they designate specified geographical locations that are already famous, or are known for the category of goods or services concerned, and are therefore associated with those goods or services in the mind of the relevant class of persons, on the one hand, and nor is the registration of geographical names, liable to be used by undertakings, that must also remain available to such undertakings as indications of the geographical origin of the category of goods or services concerned, on the other (15/01/2015, T-197/13, MONACO, EU:T:2015:16, § 48; 27/04/2016, T-89/15, NIAGARA, EU:T:2016:244, § 16).
- 17 However, Article 7(1)(c) EUTMR does not in principle preclude the registration of geographical names that are unknown to the relevant class of persons or, at least, unknown as the designation of a geographical place, or the registration of names in respect of which, because of the characteristics of the place they designate, such persons are unlikely to believe that the category of goods or services concerned originates there or was conceived of there (15/01/2015, T-197/13, MONACO, EU:T:2015:16, § 49; 27/04/2016, T-89/15, NIAGARA, EU:T:2016:244, § 17).

- 18 Article 7(1)(c) EUTMR recognises as ‘place’ of production any town, region or any country, but only insofar as said location is of a noteworthy size and qualifies as a business location in relation to the goods or services concerned. In principle, there are no objections which preclude the registration of geographical names which are unknown to the relevant class of persons – or at least unknown as the designation of a geographical location – or of names in respect of which, because of the type of place they designate, such persons are unlikely to believe that the category of goods or services concerned originates there or was conceived of there (15/10/2003, T-295/01, OLDENBURGER, EU:T:2003:267, § 33; 25/10/2005, T-379/03, Cloppenburg, EU:T:2005:373, § 36, 50; 15/01/2015, T-197/13, MONACO, EU:T:2015:16, § 49; 05/07/2016, T-167/15, NEUSCHWANSTEIN, EU:T:2016:391, § 25; 20/07/2016, T-11/15, SUEDTIROL, EU:T:2016:422, § 34, 41, 44; 02/06/2021, T-854/19, Montana, EU:T:2021:309, § 83, 99).
- 19 In making that assessment, the EUIPO is bound to establish that the geographical name is known to the relevant class of persons as the designation of a place. What is more, the name in question must suggest a current association, in the mind of the relevant class of persons, with the category of goods or services in question, or it must be reasonable to consider that such a name may, in the view of those persons, designate the geographical origin of that category of goods or services. When that assessment is made, particular consideration should be given to the relevant class of persons’ degree of familiarity with the geographical name in question, with the characteristics of the place designated by that name, and with the category of goods or services concerned (15/01/2015, T-197/13, MONACO, EU:T:2015:16, § 51; 27/04/2016, T-89/15, NIAGARA, EU:T:2016:244, § 19). These steps are quite often referred to as the ‘test’ to describe how to assess the descriptiveness of marks designating geographical origin (21/02/2024, T-756/22, AMAZONIAN GIN COMPANY, EU:T:2024:101, § 14).

Relevant public and territory

- 20 The contested goods in Classes 29 and 30 consist of foodstuff, prepared food and beverages. They mainly target the general public, whose level of attention will at most be average, as they are normally inexpensive and meant for everyday consumption (07/10/2015, T-534/13, Krispy Kreme DOUGHNUTS (fig.), EU:T:2015:751, § 32; 13/09/2016, T-390/15, 3D (fig.) / 3D'S et al, EU:T:2016:463, § 39, 40; 07/02/2018, T-795/16, CRABS (fig.) / RAKOVYE SHEIKI KARAMEL (fig.), EU:T:2018:73, § 21; 10/07/2020, T-616/19, Wonderland / Wondermix et al., EU:T:2020:334, § 29). It cannot however be ruled out that these goods also target some professionals, such as those involved in their distribution or import. In this latter case, the degree of attention will be higher.
- 21 The contested services in Class 43 consist of the provision of food and drink in various forms or in information about those services. They target the public at large whose attention towards these services is rarely above average (04/06/2015, T-562/14, YOO / YO, EU:T:2015:363, § 18; 29/10/2015, T-256/14, CREMERIA TOSCANA / La Cremeria et al., EU:T:2015:814, § 24; 18/02/2016, T-711/13 & T-716/13, HARRY’S BAR / PUB CASINO Harrys RESTAURANG (fig.) et al., EU:T:2016:82, § 46).
- 22 In accordance with Article 7(2) EUTMR, the registration is to be refused even if the grounds for refusal exist only in a part of the European Union.

- 23 The examiner decided to focus the assessment on the perception of the Danish-, Dutch-, English-, French-, German-, Hungarian-, Italian-, Polish-, Romanian-, Slovak-, Slovenian-, Spanish- and Swedish-speaking public of the EU, on the grounds that the contested sign corresponds to the way in which the word ‘Kentucky’ is spelled in those languages.
- 24 For the Board, the fact that ‘Kentucky’ may be spelled in an identical way in certain EU languages is not a decisive factor for determining the part of the EU public to be focused on for the assessment of descriptiveness of the contested sign. The variations in spelling between the different EU languages are, as a rule, minimal (see, for instance, in Latvian: *Kentuki*; or Lithuanian: *Kentukis*) and in most cases are merely due to a difference in phonetics (see in Greek: *Κεντάκι*; or Bulgarian: *Кентъки*). Furthermore, it is a rather unique and unequivocal term, which has no other meaning and is not similar to any meaningful term in any of the EU languages.
- 25 As a consequence, there are other criteria, such as the cultural, commercial or economic ties with the U.S., which would appear at first sight more pertinent for the choice of the relevant public under Article 7(1)(c) EUTMR.
- 26 Be that as it may, the fact is that the refusal of the contested sign was merely based under Article 7(1)(c) EUTMR on its perception by the part of the relevant EU public indicated above.
- 27 The Board will consider the perception of the contested sign by the relevant public of the whole EU.

Degree of familiarity of the relevant public with the contested sign as a geographical name

- 28 The contested sign consists in the word ‘Kentucky’, which, as it results from the dictionary definitions put forward by the examiner (see paragraph 2 above), is the name of one of the 50 U.S. states.
- 29 The examiner stresses that Kentucky has global reputation with respect to farming, agriculture and food production, including dairy products and prepared foods. As proof of it, extracts from *Wikipedia*, the *Encyclopædia Britannica*, Google searches and other sources were put forward (see paragraphs 2 and 5 above).
- 30 The contested decision does not elaborate on the degree of the relevant public’s familiarity with Kentucky as a geographical indication and its characteristics. It simply draws the conclusion that the relevant EU public is aware of Kentucky’s reputation in the economic sectors mentioned.
- 31 The evidence put forward in the contested decision is however far from establishing the existence of such a global reputation.
- 32 The *Britannica* and *Wikipedia* entries do report on agriculture and farming as some of the most relevant sectors of Kentucky’s economy. However, they do not back the idea that such economic activity decisively contributes to projecting the state’s image at an international level. The same holds true for the extract from the website *KY FoodandFarm* (<https://www.kyfoodandfarm.info/ky-ag-facts>, verified by the Board on

10 March 2026). Even if these sources provide some figures about, for instance, the annual production of poultry and cattle in the state, they are neither compared with the production from other U.S. states nor with other exporting regions. No information is provided either on the extent to which that production is exported, in particular to the EU.

- 33 Conversely, the applicant submitted evidence on appeal (see, in particular, Enclosure 3) showing that Kentucky is not among the top U.S. states in the production of agricultural crops, soybeans, poultry or beef. The data provided are referred to the years 2023 and 2024, 27 July 2023 being the relevant date for the assessment.
- 34 The applicant's document submitted in Enclosure 3 shows the ranking of what U.S. states produce the most food which is extracted from the website farmprogress.com, focusing on the first ten or first five states of the U.S. out of 50.
- 35 In the same enclosure, the information extracted from the website nationalbeefwire.com shows that the state of 'KENTUCKY' ranks in 14th position out of 50 with the most cattle, which shows a certain share in the production of beef. The figures provided by the applicant in the extract from the website worldpopulationreview.com also show that in the beef production by state in 2024, 'KENTUCKY' is in 8th position.
- 36 Those data are otherwise consistent with the official data provided by the U.S. Department of Agriculture. According to them (<https://www.ers.usda.gov/data-products/state-agricultural-trade-data/annual-state-agricultural-exports>), in the year 2023 Kentucky only ranked 20th among the U.S. states in terms of value of the total agricultural exports; 9th as to the exports of poultry; 20th as to the export value of beef and veal; 12th as to the total animal products; or 26th in the export of dairy products. Furthermore, Kentucky is also quite far in absolute terms from the production of the leading U.S. states in crops, animal and dairy products.
- 37 From the foregoing, it follows that, even though the agricultural and farm production of Kentucky cannot be qualified as negligible, it is manifestly insufficient to consider that it has a global reputation for its agricultural, farming and food production.
- 38 The relevant public's familiarity with Kentucky and its characteristics cannot therefore be directly inferred from the state's role in the international agricultural, farming and food trade.
- 39 Otherwise, and as submitted by the applicant, Kentucky is not either among the top U.S. business, leisure or tourist destinations. It does not have any famous cities, attractions or a particular cultural or economic significance, as well as a size or population, which could be liable to make it popular among the EU public(02/06/2021, T-854/19, MONTANA, EU:T:2021:309, § 91).
- 40 In that regard, the applicant submitted an article dated November 2021 from the site of CNBC TRAVEL, which bears the title 'Europeans are headed to the United States – here's where they're going' (see Enclosure 2). It reports on the post-pandemic travel recovery and outlines the most popular U.S. business and touristic destinations for Europeans. Neither Kentucky nor any of its locations is mentioned in the article. The same holds true for the ranking of most visited U.S. states in 2024 from the site of 'WORLD POPULATION REVIEW' (see also Enclosure 2).

- 41 Furthermore, there is no evidence on file showing that the EU public may have been particularly exposed to Kentucky as a geographic location or to any of its distinctive cultural, natural or economic characteristics. In particular, it is geographically rather distant from the EU and there is no indication that the state could have had a significant impact on the EU public by means of any successful films, novels, TV series, music, international events, digital marketing, digital virality or social media or outreach efforts based on place branding or slogans (such as, for instance, ‘I Love NY’). There is absolutely nothing along those lines on which the Board may rely to back the examiner’s assumptions.
- 42 In that connection, the fact that some information may be learnt from generally accessible sources does not mean that the relevant public may be immediately aware of it (25/10/2018, T-122/17, DEVIN, EU:T:2018:719, § 39).
- 43 Even if the Board was to concede that at least a non-negligible part of the EU public would recognise ‘Kentucky’ as an U.S. State, the Board sees no basis to take that assumption any further, namely to admit that the said part of the public would associate any particular characteristics to the state in question, including its exact location in the U.S., geography, prevailing economic activities and any food specialities.
- 44 The foregoing being so, it is unlikely that the contested sign may suggest any particular association in the mind of the relevant EU public with the contested goods, let alone that it may influence the consumer preferences. In other words, there can be no sufficiently direct and specific relationship between the contested sign and the contested goods and services (12/06/2007, T-339/05, LOKTHREAD, EU:T:2007:172, § 42).
- 45 In particular, the applicant’s contention that the association with the category of the contested *poultry* and different chicken products (Class 29) is overwhelmingly linked to the applicant’s own brand (Kentucky Fried Chicken, KFC), rather than to any inherent agricultural reputation, is not without merit. Similar considerations could be made with respect to the contested services in Class 43, which are all related to restaurant services.
- 46 The Board does not see any basis either to consider it reasonable to assume that an association between the contested sign and the contested goods and services may be established in the future.
- 47 Finally, the Board stresses that the present case significantly differs from those underlying the ICELAND Grand Board decisions (see, inter alia, 15/12/2022, R 1238/2019-G, Iceland) and the ensuing judgments from the General Court (see, inter alia, 16/07/2025, T-105/23, Iceland, EU:T:2025:729). In that case, the contested mark consisted in the name of a European country being part of the European Economic Area, integrated into the European Single Market and having strong bonds with the European Union. In addition, it had deepest ties with Denmark as compared to any other EU Member State, due to the fact that the country was under Danish rule for over four hundred years, as well as to the close relationship maintained in the post-independence era. This socio-cultural proximity was further nurtured by the fact that many Icelanders have a knowledge of Danish due to that language continuing to be taught in Icelandic schools (15/12/2022, R 1238/2019-G, Iceland, § 115, 116). In that regard, it is important to note that the general public in Denmark was part of the public defined as relevant for the assessment of descriptiveness in the ICELAND case (§ 90).

- 48 The Grand Board actually stressed the following: ‘Unlike geographical regions such as Alaska or Montana, Iceland is an integral part of the Single Market and has strong trade links with the EU. [...] In addition, unlike Alaska or Montana, Iceland is well-connected to the EU by regular short-haul air flights to a number of European cities and is a popular destination for visitors drawn from the target public’ (§ 118 and 119).
- 49 The Grand Board took therefore good care not to extent its findings to cases such as MONTANA (02/06/2021, T-854/19, MONTANA, EU:T:2021:309) and ALASKA (08/09/2009, T-226/08, Alaska, EU:T:2009:257), whereby a sufficient familiarity of the European public with the U.S. states in question or the production of the contested goods in them, respectively, had not been found.
- 50 In conclusion, the Board considers that that the descriptiveness of the contested sign in the sense of Article 7(1)(c) EUTMR has not been sufficiently shown.

Article 7(1)(b) EUTMR

- 51 The examiner considered that, since the contested sign was descriptive, it was also deprived of distinctive character according to Article 7(1)(b) EUTMR.
- 52 This conclusion is, however, vitiated, as no descriptive character of the contested sign has been convincingly shown. The examiner did not provide any independent reasoning for the application of Article 7(1)(b) EUTMR, and the Board cannot see any.

Conclusion

- 53 The appeal is well founded. Hence, the contested decision must be annulled.

Order

On those grounds,

THE BOARD

hereby:

- 1. Annuls the contested decision.**
- 2. Allows the European Union trade mark application to proceed to registration.**

Signed

N. Korjus

Signed

J. Jiménez Llorente

Signed

A. Kralik

Acting Registrar:

Signed

K. Zajfert

