DECISION
of the Fourth Board of Appeal
of 28 May 2026

In case R 1573/2025-4

Fireheart Inc.
Suite 850, 1990 S. Bundy Drive
90025 Los Angeles, CA
United States

Applicant / Appellant

represented by Lewis Silkin Ireland, Fitzwilliam Court Office Suite 505 - 506 2 Leeson Close, 2 Dublin, Ireland

v

Maas Natur GmbH
Werner-von-Siemens-Str. 2
33334 Gütersloh
Germany

Opponent / Defendant

represented by Brandi Rechtsanwälte Partnerschaft mbB, Adenauerplatz 1, 33602 Bielefeld, Germany

APPEAL relating to Opposition Proceedings No B 3 216 581 (European Union trade mark application No 18 979 564)

THE FOURTH BOARD OF APPEAL

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

Registrar: K. Zajfert

gives the following

Decision

Summary of the facts

1 By an application filed on 29 January 2024, Fireheart Inc. ('the applicant') sought to register the word mark

SARAH J. MAAS

('the contested sign') as a European Union trade mark ('EUTM') for, inter alia, the following goods:

Class 16: *Art prints; books; stationery cards; journals; notebooks; dust jackets for books; paper bookmarks; metal bookmarks not of precious metals; bookends; stickers; page overlays; paintings; spiral notebooks; printed embroidery design patterns.*

Class 18: *Bags; totes; purses; backpacks; suitcases; weekenders [bags]; coin purses; wallets; business card cases.*

Class 24: *Traced cloths; canvases and fabrics for embroidery; canvas for tapestry or embroidery; blankets; pillowcases; tablecloths; placemats, not of paper; beach towels.*

Class 25: *Shirts; T-shirts; sweatshirts; hoodies; joggers; pants; shorts; jackets; socks; underwear; pajamas; hats; scarves; gloves.*

2 The application was published on 25 April 2024.

3 On 3 May 2024, Maas Natur GmbH ('the opponent') filed an opposition against the registration of contested sign for part of the goods, namely as outlined in paragraph 1 above ('the contested goods').

4 The grounds of opposition in the notice of opposition were those laid down in Article 8(1)(a) EUTMR. In the substantiation of the opposition, filed together with the notice of opposition, the opponent referred, inter alia, to a 'likelihood of confusion'.

5 The opposition was based on EUTM No 18 545 317 for the figurative mark

('the earlier mark') filed on 1 September 2021 and registered on 23 March 2022 for the following goods:

Class 16: *Paper; millboard; printed matter; bookbinding material; paper stationery; drawing materials; artists' materials; paintbrushes.*

Class 18: *Pouch baby carriers; garment carriers; sling bags for carrying infants.*

Class 24: *Textiles and substitutes for textiles; linens.*

Class 25: *Clothing; footwear; headgear.*

6 By decision of 11 July 2025 ('the contested decision'), the Opposition Division upheld the opposition and rejected the contested sign for all the contested goods. It ordered the applicant to bear the costs and gave, in particular, the following reasons for its decision:

- On 3 May 2024, the Office received the opponent's notice of opposition and the opponent's observations filed at the same time. Although in the notice of opposition the opponent only indicated that the ground for the opposition is Article 8(1)(a) EUTMR, in the referred additional documents, the opponent clearly expressed the existence of likelihood of confusion between the signs, stating that the signs are highly similar. Since there are clear references to the likelihood of confusion in the opponent's observations, it is considered that the opposition is also based on Article 8(1)(b) EUTMR. Therefore, the analysis of this ground of opposition was made.

- As regards the comparison of the contested goods in Class 16, the contested *art prints; books; stationery cards; journals; notebooks; paper bookmarks; stickers; page overlays; spiral notebooks; printed embroidery design patterns* are included in or overlap with, the broad category of the opponent's *printed matter*, which are therefore identical.

- The contested *paintings* are at least similar to the opponent's *printed matter* because the contested goods have close connections to the opponent's goods. Their nature is similar and they can, at least, originate from the same producers and have the same distribution channels, and they may also target the same relevant public.

- The contested *dust jackets for books; metal bookmarks not of precious metals; bookends* are similar to the opponent's *printed matter* because they coincide in distribution channels, relevant public and producer, and are complementary.

- As regards the comparison of the contested goods in Class 18, the contested *bags; totes; purses; backpacks; weekenders [bags]; coin purses; wallets; business card cases* are similar to the opponent's *clothing* in Class 25. This is because they are likely to be considered by consumers as aesthetically complementary accessories to articles of outer clothing because they are closely coordinated with these articles and may well be distributed by the same or linked manufacturers, and it is not unusual for clothing manufacturers to directly produce and market them. Moreover, these goods can be found in the same retail outlets.

- The contested *suitcases* and the opponent's *garment carriers* coincide in purpose to the extent that they are all for carrying luggage on a journey. They also coincide in relevant public and distribution channels and are, therefore, similar.

- As regards the comparison of the contested goods in Class 24, the contested *canvases and fabrics for embroidery; canvas for tapestry or embroidery* are included in the broad category of the opponent's *textiles and substitutes for textiles,*

and the contested *blankets; pillowcases* are included, or overlap with, the opponent's *textile goods, and substitutes for textile goods*. They are therefore identical.

- The contested *traced cloths; tablecloths; placemats, not of paper; beach towels* are similar to a low degree to the opponent's *textiles and substitutes for textiles,* because they coincide in their nature, distribution channels and relevant public.

- All the contested goods in Class 25 are identical to the earlier goods in the same class.

- The goods found to be identical or similar to varying degrees target the public at large and business customers. The degree of attention is average.

- The relevant territory is the European Union.

- The verbal element 'MAAS', present in both signs, is meaningful in some of the languages of the relevant territory. For example, at least the Dutch- and German-speaking parts of the relevant public will perceive it as a surname. This conceptual overlap contributes to the overall similarity between the signs. The comparison of the signs was focused on that part of the public. As this verbal element does not describe nor allude to the relevant goods, it is distinctive.

- The contested sign's remaining verbal elements will be perceived as a combination of the very common first name 'SARAH', followed by an initial 'J.'.

- The sole word comprising the earlier mark is distinctive. Its colour depiction and stylisation as well as the dot at the end, while possessing a certain degree of distinctiveness, essentially serve decorative purposes.

- The contested sign will be perceived as a combination of a first name, an initial for a middle name and a surname. While both names in themselves are distinctive, in the case of a sign comprising a first name and last name, the surname of the trade mark in principle confers on it distinctive character, and therefore surnames generally have a higher impact on the public.

- Visually, the signs coincide in the verbal element 'MAAS', which is the sole verbal element of the earlier mark and the most distinctive in the contested sign. However, they differ in the contested sign's remaining verbal elements 'SARAH' and 'J.'. The signs also differ in the stylisation and the colour of the earlier mark with a limited impact. Therefore, the signs are visually similar to a below-average degree.

- Aurally, the pronunciation of the signs coincides in the sound of the letters 'MAAS', present identically in both signs, and differs in the sound of the additional elements 'SARAH J.' of the contested sign, which have no counterparts in the earlier mark. Therefore, the signs are aurally similar to a below-average degree.

- Conceptually, both signs will be perceived as referring to the same surname, and the contested sign additionally contains a first name and the initial for a middle name. There exists a significant semantic coincidence between the signs. The signs are conceptually similar to an above-average degree.

- The earlier mark has a normal degree of distinctiveness.

- When a sign is composed of both a first name and surname, it is the latter that confers more strength on the mark. As a result, the element ‘MAAS’ has a higher intrinsic value than the first name ‘Sarah’ followed by an initial ‘J.’. As the surname ‘Maas’ is identically reproduced in both signs, the relevant consumer of the identical and similar goods will not be in a position to safely distinguish between the marks. They may believe that the goods originate from the same or economically linked undertakings and consider the contested sign a sub-brand. The surname alone will be perceived as the short version of the full name, thus identifying the same origin.

- The previous decisions invoked by the applicant are not applicable to the present case.

- Considering all the above, there is a likelihood of confusion on the part of the Dutch- and German-speaking parts of the public.

7 On 2 September 2025, the applicant filed an appeal against the contested decision, requesting that the decision be entirely set aside. The statement of grounds of the appeal was received on 11 November 2025, together with Annexes 1 to 9.

8 In its response received on 2 January 2026, the opponent requested that the appeal be dismissed.

Submissions and arguments of the parties

9 The arguments raised in the statement of grounds by the applicant may be summarised as follows:

- The opponent explicitly based its opposition on Article 8(1)(a) EUTMR. No reference to Article 8(1)(b) EUTMR was made in its notice of opposition.

- Despite the applicant raising the opponent’s failure to particularise its claim under Article 8(1)(a) EUTMR, the Opposition Division did not raise a deficiency notice, nor did it give the applicant a clear opportunity to defend its position. The Opposition Division proceeded to analyse the matter under Article 8(1)(b) EUTMR, relying on statements accompanying the statement of grounds.

- This circumstance contradicts the principle of procedural fairness. Article 5(5) EUTMDR is invoked. The Office should have invited the opponent to remedy its notice of opposition and give clear guidance to the parties regarding which grounds were relied upon in the opposition. This constitutes a violation of Article 94, Article 95(1) and Article 96 EUTMR, as well as Article 41(2) of the Charter of Fundamental Rights of the EU, which require that parties be heard on all matters on which a decision is based.

- In the event the opposition is considered as being based also on Article 8(1)(b) EUTMR, the following is also submitted.

- The coinciding element present in both marks, ‘MAAS’, carries different meanings in the respective signs. While the Opposition Division was correct to find that the word ‘Maas’ present in the contested sign is a surname, it failed to recognise that the word ‘Maas’ present in the earlier mark is the name of the 900 km long river that passes through Belgium, France, and the Netherlands (see Annex 1 that explains what the Maas River is and also provides a map of the river). The Opposition Division erred when finding an above-average degree of conceptual similarity.

- In the visual comparison of the signs, the Opposition Division gave undue weight to the importance of the word ‘Maas’ in circumstances where the contested sign is the name of the world-famous author, Sarah J. Maas. Evidence as regards the fame of Sarah J. Maas is submitted demonstrating why the Opposition Division erred when it failed to acknowledge that the average consumer would perceive the contested sign as a whole.

- Consequently, the signs are dissimilar to the extent that the average consumer will not make a connection between them.

- The judgment 16/06/2021, T-368/20, Miley Cyrus / Cyrus et al., EU:T:2021:372, is directly applicable to the present proceedings. The contested sign designates a well-known author recognised internationally under that exact name. Consumers of the relevant goods, books, art prints, fashion and lifestyle merchandise, will perceive the sign ‘SARAH J. MAAS’ as a single, indivisible concept referring to a specific individual.

- Reference is also made to other judgments where the mark contains the name of a well-known individual: 12/01/2006, C-361/04 P, PICARO / PICASSO, EU:C:2006:25, § 20; 24/06/2010, C-51/09 P, Barbara Becker / BECKER et al., EU:C:2010:368, § 39; 08/02/2019, T-647/17, CHIARA FERRAGNI / Chiara, EU:T:2019:73, § 69; 22/05/2019, T-197/16, ANDREA INCONTRI / ANDREIA et al, EU:T:2019:347, § 45-47. It follows that where a mark refers to a famous person, the full name is the distinctive unit, and conceptual distinctiveness can outweigh phonetic or visual similarities and lead to a finding that the signs are dissimilar.

- Sarah J. Maas is a world-renowned American author of fantasy fiction.

- The Dutch- and German -speaking consumers form a substantial proportion of the relevant public. Nevertheless, Sarah J. Maas is among the most successful and recognisable authors globally in recent years. Her books are widely available in Dutch and German translations, and she is well known on every market in which her works are sold.

- The name Sarah J. Maas is clearly understood by the relevant public as denoting one of the most successful authors of the modern era, and arguably the most prominent author of the post-TikTok generation, owing to her viral cultural reach. Her name appears prominently and consistently across literary, promotional, and merchandising materials associated with her works. Consumers of her goods, books, art prints, fashion and lifestyle merchandise, immediately recognise the full name Sarah J. Maas as a unique indicator of origin.

- Accordingly, the relevant public associates the sign not merely with a natural person but with a distinct creative enterprise and brand identity linked to the author herself.

- The contested sign will be perceived by a significant proportion of the relevant public as directly referring to the famous author herself.

- The Opposition Division erred in selecting the surname ‘Maas’ as the dominant element. For readers familiar with the author Sarah J. Maas, the contested sign will be instantly perceived as a single, unified full name.

- The earlier mark is the sole verbal element ‘Maas’ depicted in a stylised manner, a short, four-letter term that appears visually compact and simple. The sole verbal element of the earlier mark is the Dutch name for a major tributary of the Danube, whose surrounding localities are populated by millions of people.

- By contrast, the contested sign contains a first name, a middle initial, and a surname, with three different verbal elements depicted in a standard typeface.

- The addition of the verbal element ‘SARAH J.’ fundamentally changes the appearance of the sign. The consumer’s eye is drawn first to the longer opening sequence ‘SARAH J.’, which dominates the visual field. The inclusion of the middle initial letter ‘J.’ reinforces the impression of a complete personal name, creating a typographic pattern absent from the single, concise word ‘Maas’.

- Accordingly, the signs are visually dissimilar overall. Even allowing for the coinciding verbal element ‘MAAS’, the first name and initial produce a clearly distinct configuration, consistent with the cited case law.

- Phonetically, ‘Maas’ is a single-syllable word. The contested sign comprises three clearly articulated units: ‘Sarah’ (two syllables), ‘Jay’ (one), and ‘Maas’ (one). The rhythm, intonation, and overall phonetic contour are materially different. The additional syllables and the intervening initial ‘J.’ elongate the sound pattern, creating a cadence that cannot plausibly be mistaken for the brief utterance of ‘Maas’.

- In judgment 22/05/2019, T-197/16, ANDREA INCONTRI / ANDREIA et al., EU:T:2019:347, § 45, the Court held that the addition of a first name to a surname can alter the aural identity unless the earlier mark occupies the most prominent phonetic position. Here, the first name precedes and dominates. The coinciding surname is articulated last and thus loses prominence.

- Consequently, the signs are aurally dissimilar overall. Any residual overlap from the identical final element is neutralised by the preceding first name and initial, which fundamentally alter rhythm and length.

- The findings in the contested decision as regards the conceptual similarity are contested. The signs are conceptually dissimilar.

- The contested sign has a clear and specific conceptual meaning, designating the internationally known author Sarah J. Maas, whereas the verbal element of the

earlier mark serves to describe a major tributary in Western Europe. This conceptual divergence is decisive.

– The structure, length, and rhythm of the contested sign create a dissimilar overall impression.

– There is no basis to believe that Dutch- or German-speaking consumers would treat the verbal element ‘Maas’ alone as shorthand for ‘SARAH J. MAAS’.

– Consumers encountering the contested sign on books, author-branded apparel, bags, and related goods will understand it to denote that author and her authorised merchandise. They will not assume a connection to the earlier mark, which is unconnected to any authorial identity and has not been shown to enjoy a market reputation capable of bridging the conceptual gap.

– The present case aligns factually and analytically with the General Court’s reasoning in 16/06/2021, T-368/20, Miley Cyrus / Cyrus et al., EU:T:2021:372.

– Consequently, there is no likelihood of confusion under Article 8(1)(b) EUTMR.

– The following evidence was submitted:

  - Annex 1: An extract from the Euro Canals website titled ‘Maas river, Netherlands’.

  - Annex 2: An extract from the Bloomsbury website providing an author profile of Sarah J. Maas.

  - Annex 3: An extract from the Wikipedia web page in relation to Sarah J. Maas.

  - Annex 4: An extract from the Wikipedia web page in relation to BookTok.

  - Annex 5: An article from the BBC News web page titled ‘Rise of romantasy and #BookTok was catalyst for me to write’, dated 28 June 2025.

  - Annex 6: Screenshots from the social media platforms Instagram and TikTok showing Sarah J. Maas’s followers and the number of posts using #sarahjmaas.

  - Annex 7: An article from the Mashable website titled ‘Spotify wrapped crowns its first global top author and reveals the most popular audiobooks’, dated 4 December 2024.

  - Annex 8: An article from the Forbes websites titled ‘One BookTok author sold more books this year than the top 10 new books combined’, dated 5 July 2024, indicating that ‘Sarah J. Maas has sold almost 5 million print copies this year … making her the bestselling BookTok author of the year’.

  - Annex 9: Extract from the Goodreads website showing engagement with Sarah J. Maas’s work (over 28 million ratings and 2.2 million reviews).

10 The arguments raised in response to the appeal by the opponent may be summarised as follows:

- There has been no violation of the applicant's right to be heard. The requirements under Article 94(1) EUTMR have been complied with. The notice of opposition fulfils the provisions of Article 2(2) (d) - (h) EUTMDR. It also fulfils the requirements of Article 2(2)(c) and Article 2(4) EUTMDR. The additional documents submitted with the notice of opposition showed that the ground for opposition is Article 8(1)(b) EUTMR. In its statement of grounds, the opponent expressly argued that there is a likelihood of confusion between the earlier mark and the contested sign.

- It is not in dispute that all documents and files, namely the notice of opposition and the statements of grounds, were forwarded to the applicant. Therefore, it was clear to the applicant that the opposition was based on the likelihood of confusion. The applicant therefore also had the opportunity to comment on the grounds for opposition under Article 8(1)(b) EUTMR. Nevertheless, the applicant refers in its submissions exclusively to Article 8(1)(a) EUTMR. It dismissed the arguments concerning the likelihood of confusion with the following statement: 'Where not expressly addressed in these observations, all claims made by the opponent in the notice of opposition are expressly denied by the applicant.'

- The possibility of commenting on the likelihood of confusion was not denied to the applicant in the opposition proceedings. In fact, the Opposition Division was entitled to assume that the applicant did not intend to make any further comments on the likelihood of confusion. Moreover, in accordance with consistent case-law, the right to be heard extends to the factual and legal factors on which the decision is based but not to the final position which the authority intends to adopt.

- The facts and evidence submitted by the applicant for the first time in the appeal proceedings cannot be admitted, in particular Annexes 1 to 9 as well as the statement of facts regarding the presumed fame of the American author Sarah J. Maas in the European Union.

- The documents submitted to the Board of Appeal are entirely new and cannot be regarded as supplementary to the existing evidence. It is impossible to supplement the lack of submissions at the first instance at a later stage (23/02/2023, R 1124/2022-5, DRAGONFIRE STUDIOS (fig.) / Dragonflare Studios et al.).

- The applicant also failed to provide any valid reason why it failed to submit the documents within the time limit set by the Opposition Division for responding to the opposition.

- The goods at issue are identical or highly similar.

- Due to their high degree of similarity and the similarity between the signs at issue, there is a likelihood of confusion.

- The Opposition Division did not err in finding (at least) a below-average degree of similarity.

- The verbal element ‘Maas’ in the earlier mark is not a reference to the river of the same name that crosses Belgium, France and the Netherlands. Rather, it is the surname of the founder of the opponent, an established family-owned company based in Gütersloh. Excerpts from the opponent’s history are submitted.

- The judgment 16/06/2021, T-368/20, Miley Cyrus / Cyrus et al., EU:T:2021:372, is not applicable to the present case.

- In the present case, the person concerned is at best likely to be known to no more than an insignificant proportion of the public in the European Union, particularly among Dutch and German consumers, since, according to the applicant, the books published by that person are to be classified as belonging to the romantasy genre. Readers of romantasy are typically young adults and teenagers who prefer a mixture of fantasy elements and romantic storylines. Due to the limited readership, the person in question is unlikely to be particularly well known in the European Union, especially not among the relevant public. Moreover, the evidence does not indicate otherwise. In particular, the listing in the top ten audio books in the USA (Annex 7) cannot be considered as evidence of fame in the European Union. Neither does the evidence submitted in Annexes 2, 3, 6 and 8 allow any conclusions to be drawn about fame in the European Union, in particular among Dutch- and German-speaking consumers.

- Furthermore, the verbal elements of the contested sign are a very common first name and a common surname, in contrast to ‘Miley Cyrus’.

- The conceptual overlap with regard to the word ‘Maas’ contributes to the overall similarity of the signs. Due to the widespread use and usage of the first name ‘Sarah’, the Opposition Division’s assumption that the surname gives the contested sign ‘SARAH J. MAAS’ greater strength is also correct in this particular case. Since the surname ‘Maas’ is identically reproduced in both signs, the relevant consumers of the identical and similar goods will not be able to distinguish between the signs with certainty. They may believe that the goods originate from the same or economically linked undertakings and regard the contested sign as a sub-brand. The presence of the relative ground for refusal pursuant to Article 8(1)(b) EUTMR was thus to be affirmed.

Reasons

11 All references made in this decision to the EUTMR should be seen as references to Regulation (EU) 2017/1001 (OJ 2017 L 154, p. 1), codifying Regulation (EC) No 207/2009 as amended, unless specifically stated otherwise.

12 The appeal complies with Articles 66, 67 and Article 68(1) EUTMR. It is admissible.

Admissibility of Article 8(1)(b) EUTMR as ground of opposition

13 The applicant claims that the Opposition Division erred by assessing the opposition in the light of Article 8(1)(b) EUTMR, which was not indicated in the notice of opposition (only the box for Article 8(1)(a) EUTMR was ticked) but only in the opponent’s further facts, evidence and arguments.

14 According to Article 46(1) EUTMR, a notice of opposition to registration of a trade mark may be given within a period of three months following the publication of the EU trade mark application.

15 According to Article 2(2)(c) EUTMDR, the notice of opposition is to contain the grounds on which the opposition is based by means of a statement to the effect that the requirements under Article 8(1), (3), (4), (5) and (6) EUTMR in respect of each of the earlier marks or rights invoked by the opposing party are fulfilled.

16 It is apparent from Article 2(4) EUTMDR, that the notice of opposition may also contain a reasoned statement on the grounds, the facts and arguments on which the opposition relies, and supporting evidence.

17 It follows that, since the grounds on which the opposition is based must be relied on before the expiry of the opposition period, the facts, evidence and observations submitted by an opposing party after the expiry of that period cannot be taken into consideration in order to determine the grounds on which the opposition is based (01/02/2023, T-349/22, Hacker space / Hacker-pschorr et al., EU:T:2023:31, § 33). Conversely, where the ground can be identified from the documents filed within that period, the requirement is fulfilled.

18 In the present case, when the opponent filed the notice of opposition on 3 May 2024, the opponent used the Office's online tool and ticked the box 'Article 8(1)(a) EUTMR – The contested mark is identical to the earlier trade mark and covers identical goods and/or services' as a ground of opposition in respect of its earlier mark. It did not tick the box 'Article 8(1)(b) EUTMR – There exists a likelihood of confusion on the part of the public'.

19 Nevertheless, together with the notice of opposition and therefore before the expiry of the opposition period, the opponent also submitted its reasoned statement on the grounds. In this document the opponent referred to the similarity of the goods and of the signs as well as to the likelihood of confusion. It reads for instance: 'The conflicting trademarks are highly similar, the opposing trademark has an above average distinctive character and the contested trademark has been applied for partly for identical and partly for highly similar goods. There is therefore a likelihood of confusion…'.

20 The Board observes that the opponent never expressly indicated Article 8(1)(b) EUTMR as a ground of opposition neither in its notice of opposition nor in its statement on the grounds. However, in view of the clear references to a likelihood of confusion, it can be inferred without any doubt from the opponent's arguments, filed within the opposition period, that the opposition was also based on Article 8(1)(b) EUTMR. Consequently, there was no need to remedy this deficiency (03/03/2011, R 201/2010-2, BALMAIN ASSET MANAGEMENT / BALMAIN (fig.), § 21).

21 Furthermore, the applicant had a 'clear opportunity to defend its position', contrary to its claims. The Office forwarded to the applicant the notice of opposition together with the statement of the grounds and set a time limit for the submission of observations. Although the applicant submitted its observations, it chose to address only Article 8(1)(a) EUTMR and not the likelihood of confusion under Article 8(1)(b) EUTMR.

22 In the light of the abovementioned, the Board considers that the applicant's arguments about the inadmissibility of the ground of opposition based on Article 8(1)(b) EUTMR has to be rejected.

Admissibility of the evidence filed on appeal

23 The applicant submitted evidence (Annexes 1-9), for the first time, during the appeal proceedings, relating to the individual Sarah J. Maas. The opponent has contested the admissibility of this evidence. In its response, the opponent also submitted evidence for the first time, namely excerpts from the opponent's history relating to the meaning of the earlier mark.

24 Article 27(4) EUTMDR provides that in accordance with Article 95(2) EUTMR, the Board may accept facts or evidence submitted for the first time before it where those facts or evidence (a) are, on the face of it, likely to be relevant for the outcome of the case; and (b) have not been produced in due time for valid reasons, in particular where they are merely supplementing relevant facts and evidence which had already been submitted in due time, or are submitted to contest findings made or examined by the first instance of its own motion in the decision subject to appeal.

25 Those same principles are reiterated in Article 54(1) BoA-ROP, according to which such facts or evidence may neither be disregarded if they were not available before or at the time the contested decision was taken or are justified by any other valid reason.

26 In the present case, the documents submitted by the applicant consist of various articles and extracts from websites and social media platforms relating to Sarah J. Maas. They have been submitted in order to contest the findings of the Opposition Division in relation to the comparison of the signs, in particular their meaning and the conceptual comparison. Therefore, those documents may be prima facie relevant for the assessment of the case. In addition, the opponent had the chance to comment on the new evidence and also did so.

27 It follows that the Board decides to accept the evidence submitted by the applicant. The Board however stresses that the prima facie relevance of this evidence does not imply that it is conclusive for the outcome of the case.

28 As regards the evidence submitted by the opponent in response to the statement of grounds, although this evidence supplements the opponent's arguments before the Opposition Division, the Board does not consider it prima facie relevant for the outcome of the case. Therefore, the Board decides not to admit the evidence submitted by the opponent.

Article 8(1)(b) EUTMR – likelihood of confusion

29 According to Article 8(1)(b) EUTMR, upon opposition by the proprietor of an earlier trade mark, the trade mark applied for shall not be registered if, because of its identity with, or similarity to, an earlier trade mark and the identity or similarity of the goods or services covered by the trade marks, there exists a likelihood of confusion on the part of the public in the territory in which the earlier trade mark is protected. The likelihood of confusion includes the likelihood of association with the earlier trade mark.

30 According to settled case-law, the likelihood of confusion is to be understood as being the risk that the public might believe that the goods or services covered by the earlier mark and those covered by the mark applied for come from the same undertaking or, as the case may be, from economically linked undertakings. The existence of such a risk must be assessed globally, taking into account all factors relevant to the particular case (22/06/1999, C-342/97, Lloyd Schuhfabrik, EU:C:1999:323, § 17, 18; 05/03/2020, C-766/18 P, BBQLOUMI (fig.) / HALLOUMI, EU:C:2020:170, § 63, 67; 11/06/2020, C-115/19 P, CCB (fig.) / CB (fig.) et al., EU:C:2020:469, § 54).

31 Those factors include, inter alia, the degree of similarity between the signs at issue, the goods or services in question and also the strength of the earlier mark's reputation and its degree of distinctive character, whether inherent or acquired through use (24/03/2011, C-552/09 P, TiMiKinderjoghurt, EU:C:2011:177, § 64; 04/03/2020, C-328/18 P, BLACK LABEL BY EQUIVALENZA (fig.) / LABELL (fig.) et al., EU:C:2020:156, § 57; 11/06/2020, C-115/19 P, CCB (fig.) / CB (fig.) et al., EU:C:2020:469, § 55).

32 For the purposes of applying Article 8(1)(b) EUTMR, a likelihood of confusion presupposes both that the marks at issue are identical or similar and that the goods or services which they cover are identical or similar. Those conditions are cumulative (22/01/2009, T-316/07, easyHotel, EU:T:2009:14, § 42). Furthermore, a low degree of similarity between the goods or services designated may be offset by a high degree of similarity between the marks, and vice versa (14/12/2006, T-81/03, T-82/03 & T-103/03, Venado, EU:T:2006:397, § 74).

Relevant public and territory

33 In the global assessment of the likelihood of confusion, account should be taken of the average consumer of the category of goods and services concerned, who is reasonably well informed and reasonably observant and circumspect. It should also be borne in mind that the average consumer's level of attention is likely to vary according to the category of goods or services in question (22/06/1999, C-342/97, Lloyd Schuhfabrik, EU:C:1999:323, § 26; 13/02/2007, T-256/04, Respicur, EU:T:2007:46, § 42).

34 In the present case, as stated in the contested decision and not contested by the parties, the goods at issue target the public at large and business customers (such as for the contested *canvases and fabrics for embroidery*), who will display an average degree of attention.

35 Since the earlier mark is an EUTM, the relevant territory for the assessment of the likelihood of confusion is the European Union as a whole. However, it follows from the unitary character of the EU trade mark laid down in Article 1(2) EUTMR that a trade mark application may be refused registration if a relative ground for refusal exists only in part of the European Union (23/10/2002, T-6/01, Matratzen + Matratzenmarkt Concord (fig.), EU:T:2002:261, § 59; 14/12/2006, T-81/03, T-82/03 & T-103/03, Venado, EU:T:2006:397, § 76; 13/12/2011, T-61/09, Schinken King, EU:T:2011:733, § 32).

36 The Opposition Division focused on the Dutch- and German-speaking parts of the relevant public. The Board will focus its assessment only on the German part of the public, as this will be sufficient.

Comparison of the goods

37 The contested goods are outlined in paragraph 1 and the goods covered by the earlier mark are outlined in paragraph 5 above.

38 The Opposition Division concluded that the goods at issue are partly identical and partly similar to varying degrees (see paragraph 6 above).

39 The Board has no reason to depart from the findings of the Opposition Division, which have not been contested by the parties. It therefore makes reference to these findings in order to avoid unnecessary repetition, bearing in mind that it may adopt the grounds of a decision taken by the Opposition Division, which thus make up an integral part of the reasons for the Board's own decision (13/09/2010, T-292/08, OFTEN / OLTEN et al., EU:T:2010:399, § 48; 11/09/2014, T-450/11, GALILEO (fig.) / GALILEO, EU:T:2014:771, § 35)

Comparison of the signs

40 The global assessment of the likelihood of confusion must, so far as concerns the visual, phonetic or conceptual similarity of the signs at issue be based on the overall impression given by those signs, bearing in mind, in particular, their distinctive and dominant elements. The perception of the signs by the average consumer of the goods or services in question plays a decisive role in the global assessment of that likelihood of confusion. The average consumer normally perceives a mark as a whole and does not engage in an analysis of its various details (11/11/1997, C-251/95, Sabèl, EU:C:1997:528, § 23; 22/06/1999, C-342/97, Lloyd Schuhfabrik, EU:C:1999:323, § 25; 08/05/2014, C-591/12 P, Bimbo Doughnuts, EU:C:2014:305, § 21; 22/10/2015, C-20/14, BGW / BGW, EU:C:2015:714, § 35).

41 Two marks are similar when, from the point of view of the relevant public, they are at least partially identical as regards one or more relevant aspects, namely the visual, aural and conceptual aspects (23/10/2002, T-6/01, Matratzen + Matratzenmarkt Concord (fig.), EU:T:2002:261, § 30; 15/12/2010, T-331/09, Tolposan, EU:T:2010:520, § 43; 17/03/2021, T-186/20, The time / Timehouse, EU:T:2021:147, § 21).

42 The signs to be compared are:

	**SARAH J. MAAS**
Earlier mark	*Contested sign*

43 The earlier mark is a figurative mark consisting of the stylised depiction of the verbal element 'Maas', followed by a dot or full stop, in blue. As indicated by the Opposition Division, the stylisation, while not entirely non-distinctive, is minimal and merely serves decorative purposes.

44 The dot located at the end of the earlier mark is a frequently used punctuation mark. It has a weak distinctive character, although it is not entirely negligible, as it contributes a minor visual nuance to the overall appearance of the mark (28/09/2022, T-454/21, G CORELABS (fig.) / CORE (fig.) et al., EU:T:2022:591, § 41; 28/11/2025, R 260/2025-2, toty. (fig.) / COTY (fig.) et al., § 86).

45 The term 'Maas' may be understood by parts of the relevant public as the river Maas, as the applicant argued. It may also be perceived by parts of the relevant public as a surname, as correctly stated in the contested decision. In both these perceptions it has a normal degree of distinctiveness.

46 The contested sign is a word mark, consisting of the verbal elements 'SARAH J. MAAS'. In this regard, it must be recalled that, for the protection of word marks, it is irrelevant whether they are written in upper- or lower-case letters, since it is the word as such which is protected and not the individual graphic or stylistic characteristics which that mark might possess (31/01/2013, T-66/11, Babilu, EU:T:2013:48, § 57). Since the contested sign is a word mark, there is no dominant element.

47 The contested sign will be perceived by the relevant public as the name (first name, initial of the middle and a surname) of a person.

48 The element 'MAAS', which follows the first name 'Sarah' and the initial 'J.', is likely to be perceived by the relevant public as a surname. In some parts of the European Union, surnames have, as a general rule, a more distinctive character than first names (16/06/2021, T-368/20, Miley Cyrus / Cyrus et al., EU:T:2021:372, § 33). In this regard, surnames normally have a higher intrinsic value as indicators of the origin of goods or services than first names in most of the Member States, also in Germany.

49 In the present case, 'Sarah' is likely to be perceived as a common first name and 'J.' will be merely perceived as an initial and therefore plays a secondary role. In those circumstances, the relevant public is likely to pay more attention to the surname 'Maas' in the contested sign, since that element identifies the named individual more precisely and is therefore more distinctive within the contested sign (25/04/2025, R 2506/2024-4, Marcelino (fig.) / maria marcelino (fig.), § 27).

50 Visually, the signs coincide in the verbal element 'Maas'/'MAAS'. They differ in the first verbal element 'SARAH' and the initial 'J.' of the contested as well as the stylisation of the earlier mark. Due to the existence of an additional verbal element as well the letter 'J.', there are visual differences between the signs. However, such differences are insufficient to rule out the impact of the coinciding verbal element 'Maas'/'MAAS', which is the sole verbal element of the earlier mark.

51 Moreover, the dot located at the end of the earlier mark has a weak distinctive character and will not give rise to an impression of a significant visual difference between the signs at issue (28/09/2022, T-454/21, G CORELABS (fig.) / CORE (fig.) et al., EU:T:2022:591, § 45; 28/11/2025, R 260/2025-2, toty. (fig.) / COTY (fig.) et al., § 97).

52 Overall, the Board considers the signs visually similar at least to a below-average degree (25/04/2025, R 2506/2024-4, Marcelino (fig.) / maria marcelino (fig.), § 31-32).

53 Aurally, the pronunciation of the signs coincides in the sound of the coinciding element ‘Maas’/‘MAAS’. The signs differ in the sound of the verbal element ‘SARAH’ and the initial ‘J.’, which are present only in the contested sign. Although these elements are also distinctive and occupy the first and second position in the contested sign, the attention and memory of the relevant consumer will focus on the coinciding surname ‘Maas’ (23/01/2025, R 1219/2024-5, LUCHINO (fig.) / Victorio & Lucchino (fig.) et al., § 58). The dot or full stop present in both signs will not be pronounced.

54 It follows that the signs are aurally similar at least to a below-average degree (23/01/2025, R 1219/2024-5, LUCHINO (fig.) / Victorio & Lucchino (fig.) et al., § 58; 25/04/2025, R 2506/2024-4, Marcelino (fig.) / maria marcelino (fig.), § 33).

55 As regards the conceptual comparison, the Board acknowledges that the case-law is not entirely settled on how to carry out a conceptual comparison in the case of signs referring to surnames or first names of persons. According to one line of case-law, the fact that marks contain surnames or first names leaves open the possibility of a conceptual comparison, but does not necessarily imply that there is a conceptual similarity, which can become apparent only from an examination of each individual case. According to a second line of case-law, a conceptual comparison between trade marks composed of surnames or first names of persons is in principle impossible and neutral, unless there are special circumstances which make such a comparison possible, such as, for example, the celebrity of the person concerned or the semantic content of a name (16/12/2020, T-863/19, Pcg Calligram Christian Gallimard / Gallimard et al., EU:T:2020:632, § 101-106 and the case-law cited; 30/06/2021, T-531/20, ROLF (fig.) / Wolf et al., EU:T:2021:406, § 63 and the case-law cited; 21/01/2026, T-561/24, Elton (fig.) / ELON et al., EU:T:2026:30, § 51).

56 Nevertheless, in the present case, the difference between these two lines of case-law is irrelevant for the outcome, as there is either a conceptual similarity between the signs in accordance with the first line of case-law, or the comparison would remain neutral, in accordance with the second line of case-law, therefore, not affecting the similarity of the signs.

57 According to the first line of case-law, for the part of the relevant public that perceives the earlier mark as the surname ‘Maas’, and the contested signs’ verbal elements ‘SARAH J. MAAS’ as the combination of a first name, the initial of a middle name and the surname ‘Maas’, there is an average degree of conceptual similarity between the signs concerned, because they both identify an individual with essentially the same surname (28/06/2012, T-133/09, B. Antonio Basile 1952, EU:T:2012:327, § 60, confirmed by 06/06/2013, C-381/12 P, B. Antonio Basile 1952, EU:C:2013:371, § 70; 23/01/2025, R 1219/2024-5, LUCHINO (fig.) / Victorio & Lucchino (fig.) et al., § 59; 25/04/2025, R 2506/2024-4, Marcelino (fig.) / maria marcelino (fig.), § 34).

58 The applicant submits that the contested sign will be perceived by the relevant public as referring to the well-known author Sarah J. Maas. Indeed, according to the second line of case-law, the fame of a person may be a relevant factor in the conceptual comparison, in particular where the name concerned has become the symbol of a concept due to the celebrity of the person carrying that name (22/06/2004, T-185/02, PICARO/PICASSO, EU:T:2004:189, § 57; 24/06/2010, C-51/09 P, Barbara Becker, EU:C:2010:368, § 37; 17/09/2020, C-449/18 P, MESSI (FIG. MARK) / MASSI et al., EU:C:2020:722, § 47-48;

17/09/2020, C-474/18 P, MESSI, EU:C:2020:722, § 47-48; 16/06/2021, T-368/20, Miley Cyrus / Cyrus et al., EU:T:2021:372, § 61).

59 However, that assessment requires that the well-known character of that person has been established. In the present case, the Board considers that the claimed fame of Sarah J. Maas is not a matter of common knowledge.

60 In addition, the applicant's reliance on the judgment of 16/06/2021, T-368/20, Miley Cyrus / Cyrus et al., EU:T:2021:372, is misplaced. In that case, the General Court found that Miley Cyrus was a public figure of international reputation known to most well informed reasonably observant and circumspect persons and that, accordingly, the mark applied for, 'MILEY CYRUS', had a clear and specific semantic content for the relevant public (16/06/2021, T-368/20, Miley Cyrus / Cyrus et al., EU:T:2021:372, § 51, 61).

61 In the present case, the evidence filed by the applicant on appeal shows at most that Sarah J. Maas is an American commercially successful author, particularly in literary and online fan communities. It does not establish that the relevant public, in particular the German-speaking public, would perceive the contested sign as referring to a public figure of the kind contemplated in the 'Miley Cyrus' judgment, namely a person of international reputation known to most well informed, reasonably observant and circumspect persons. The applicant points out itself that Sarah J. Maas is 'arguably the most prominent author of the post-TikTok generation' and therefore is, at most, recognised within a particular generational or cultural segment, rather than by the relevant public more broadly. Accordingly, the applicant cannot rely on that judgment in order to argue that the contested sign possesses such a clear and specific semantic content as to counteract the similarities between the signs under the global assessment of the likelihood of confusion.

62 Even if Sarah J. Maas would be known to a part of the German public, the Board considers that there is at least a non-negligible part of the relevant German public for whom that name is just a name without any relation to a famous person. Therefore, for that part of the relevant public, the conceptual comparison would remain neutral according to the second line of case-law. The Board also states, that the second line of case-law can also be interpreted in a way that if 'Maas' was considered an uncommon surname it would make the comparison possible, resulting in an average degree of conceptual similarity (see paragraph 57 above).

Overall assessment of the likelihood of confusion

63 The global assessment of the likelihood of confusion implies some interdependence between the relevant factors, in particular between the similarity of the trade marks and that of the goods or services covered. Accordingly, a low degree of similarity between those goods or services may be offset by a high degree of similarity between the trade marks, and vice versa (29/09/1998, C-39/97, Canon, EU:C:1998:442, § 17; 18/12/2008, C-16/06 P, Mobilix, EU:C:2008:739, § 46; 05/03/2020, C-766/18 P, BBQLOUMI (fig.) / HALLOUMI, EU:C:2020:170, § 69).

64 It is also settled case-law that the more distinctive the earlier mark, the greater will be the likelihood of confusion, and therefore marks with a highly distinctive character, either per se or because of the recognition they possess on the market, enjoy broader protection than marks with a less distinctive character (11/11/1997, C-251/95, Sabèl,

EU:C:1997:528, § 24; 29/09/1998, C-39/97, Canon, EU:C:1998:442, § 18; 22/06/1999, C-342/97, Lloyd Schuhfabrik, EU:C:1999:323, § 20).

65 The earlier mark as a whole does not have any meaning in relation to the goods in question for the relevant public. Therefore, the earlier mark must be considered as having an average degree of inherent distinctiveness.

66 The Board recalls that the average consumer only rarely has the chance to make a direct comparison between the different marks but must place their trust in their imperfect recollection of them (22/06/1999, C-342/97, Lloyd Schuhfabrik, EU:C:1999:323, § 26). Even those consumers with a high degree of attention will still be subject to the imperfect recollection of trade marks (21/11/2013, T-443/12, ancotel, EU:T:2013:605, § 54).

67 Surnames have, in principle, a higher intrinsic value as indicators of the origin of goods and services than first names. This is because general experience indicates that the same first name may belong to a great number of people with nothing in common, whereas the same surname could imply a link between those people, that is to say a family link (01/03/2005, T-185/03, Enzo Fusco, EU:T:2005:73, § 52), and consumers tend to pay more attention to surnames than to first names (13/07/2005, T-40/03, Julián Murúa Entrena, EU:T:2005:285). While each case is dependent on its facts, the Board considers that the element ‘Maas’, essentially reproduced in both signs, is the most distinctive element of each sign, leading to potential confusion, given the principle of imperfect recollection, or simply a likelihood of associating the coinciding surname. No relevant conceptual difference between the signs arises such that the signs would be perceived by the public to be conceptually dissimilar (26/04/2018, T-554/14, MESSI (fig.) / MASSI et al., EU:T:2018:230, § 61-63, confirmed by 17/09/2020, C-449/18 P & C-474/18 P, MESSI (fig.) / MASSI et al., EU:C:2020:722).

68 Furthermore, the outcome remains the same in this case, in light of the principle of interdependence, even if the names are considered to have no concept at all, and that no conceptual comparison is possible for the relevant public (27/06/2019, T-268/18, Luciano Sandrone / DON LUCIANO, EU:T:2019:452; 25/04/2025, R 2506/2024-4, Marcelino (fig.) / maria marcelino (fig.), § 39).

69 The goods covered by the signs in conflict have been found identical, or similar to varying degrees. The signs are visually and aurally similar at least to a below-average degree and conceptually similar to an average degree (or the conceptual comparison remains neutral). The level of attention of the relevant public is considered average. The individuals identified are not so well known to the public focused on that a conceptual differentiation arises, such as could potentially neutralise the effect of the visual and aural similarities (see paragraph 61 above).

70 It follows, taking into account the abovementioned factors, that there is a risk that at least a non-negligible part of the German public focused on might believe that the relevant goods covered by the earlier mark and those covered by the contested sign come from the same undertaking or, as the case may be, from economically linked undertakings, as found in the contested decision. This is either because they will more easily memorise the surname and confuse the signs, or because the relevant public will be led to believe that they denote different lines of the same or similar goods due to the fact that both signs contain the uncommon surname ‘Maas’, whose impact in the overall perception of the signs will be greater than that of any other elements, as explained above. This

suffices to find that a likelihood of confusion cannot be excluded for this part of the relevant public, contrary to the arguments made on appeal (23/01/2025, R 1219/2024-5, LUCHINO (fig.) / Victorio & Lucchino (fig.) et al., § 71; 25/04/2025, R 2506/2024-4, Marcelino (fig.) / maria marcelino (fig.), § 41).

71 Therefore, the opposition is well founded on the basis of the earlier mark for all the contested goods pursuant to Article 8(1)(b) EUTMR.

Conclusion

72 The Opposition Division correctly upheld the opposition as regards all the contested goods on the ground of Article 8(1)(b) EUTMR.

73 Consequently, the appeal must be dismissed.

Costs

74 Pursuant to Article 109(1) EUTMR and Article 18 EUTMIR, the applicant, as the losing party, must bear the opponent's costs of the opposition and appeal proceedings.

75 As to the appeal proceedings, these consist of the opponent's costs of professional representation of EUR 550.

76 As to the opposition proceedings, the Opposition Division ordered the applicant to bear the opposition fee of EUR 320 and the opponent's representation costs which were fixed at EUR 300. This decision remains unaffected.

77 The total amount for both proceedings is therefore EUR 1 170.

Order

On those grounds,

THE BOARD

hereby:

1. **Dismisses the appeal.**

2. **Orders the applicant to bear the opponent's costs in the appeal proceedings, which are fixed at EUR 550. The total amount to be paid by the applicant in the opposition and appeal proceedings is EUR 1 170.**

Signed	Signed	Signed
N. Korjus	A. Kralik	J. Jiménez Llorente

Registrar:

Signed

p.o. M. Chaleva