

GENERAL COURT OF THE EUROPEAN UNION

Second Chamber

STATEMENT IN INTERVENTION

in case T-137/26

filed in the name of the *Intervener*

INTERNATIONAL TRADEMARK ASSOCIATION (hereinafter “INTA”)

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the main parties being

The Estate of the Late Sonia Brownell Orwell, *Applicant*

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and

European Union Intellectual Property Office (EUIPO), hereinafter “the Office”, *Defendant*

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This statement is made pursuant to Article 145 of the Rules of Procedure, in execution of the Court’s order of 3 July 2026 (reg. no. 1305481) and within the deadline set by the Court (letter of 10 July 2026; reg. no. 1306715).

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2 REQUESTED MEASURES

1. In support of the Applicant’s first head of claim, INTA argues that the Court should set aside the decision rendered by the Office’s Grand Board of Appeal on 19 December 2025 in case R 2248/2019-G (hereinafter the “Contested Decision”).
2. INTA agrees to bear its own expenses.

3 SUMMARY OF THE DISPUTE

3. For the sake of concision, INTA refers to the description of facts and events contained under paragraphs 1, 4, 6, 10-12, 19 and 168-169 of the Contested Decision, and stresses, or nuances, the following.
 - The contested European Union trade mark (“EUTM”) is the word mark GEORGE ORWELL, filed on 6 March 2018 for various goods and services.
 - Registration was partially refused, namely for goods in classes 9 (*i.a.* video tapes; compact discs; DVDs; CD-roms; digital media and recordings; electronic publications; movies; webcasts; podcasts; etc.) and 16 (*i.a.* printed matter; books; publications; newspapers; albums; teaching materials for education and information; book covers; prints) and services in class 41 (*i.a.* entertainment; cultural activities; educational services; organisation of events, congresses; advisory; consultancy and information services).
 - On 24 February 2021, INTA filed written observations during the proceedings before the Office (see Applicant’s **Annex A7**, the content of which is considered to be repeated here).
 - With the Contested Decision, the Office’s Grand Board of Appeal dismissed the appeal and refused registration on the basis of Article 7(1)(b)¹ and (c)² of Regulation (EU) 2017/1001 on the European Union trade mark (“EUTMR”) for the English-speaking public, in particular in Ireland and Malta.

¹ Paras. 124-138 of the Contested Decision.

² Paras. 28-123 of the Contested Decision.

- The Contested Decision contains additional “final *obiter dictum* remarks”³ which do not determine its outcome.

4 INTA’S POSITION ON THE APPLICATION OF ARTICLE 7(1)(B) AND (C) EUTMR

4. INTA supports the Applicant in its claim that the Office made an erroneous application of Article 7(1)(b) and (c) EUTMR. INTA endorses the Applicant’s pleas and refers to them.
5. Article 4 EUTMR provides that personal names may be registered as trade marks provided they are capable of distinguishing the goods or services of one undertaking from those of other undertakings.
6. In commerce, numerous personal names function as trade marks for the broad spectrum of industries. Personal names do not lose their capacity to indicate commercial origin of goods and services when gaining public recognition (be it during their life or post-mortem). The characteristics of the goods and services marketed under these names are closely related to the characteristics for which the respective individuals had developed a reputation. This well-known fact is true in probably all industries. See the following reputed names:
 - “Citroën”, “Ferrari”, “Porsche” or “Opel” for cars and vehicles;
 - “Giorgio Armani”, “Chanel”, “Christian Dior”, “Karl Lagerfeld” or “Versace” for clothing and perfumes;
 - “Louis Vuitton” for bags and leather goods;
 - “Michelin” for tyres and maps;
 - “Roger Federer” or “Carlos Alcaraz” for sporting clothes, accessories and related services;
 - etc.
7. The examples set out above reflect a broader market reality: famous personal names can and do function as trade marks for goods and services across different sectors. The fact that the public recognises the individual and associates the name with a particular field of activity does not prevent the same name from also identifying the commercial origin of goods or services. Consumers are accustomed to personal names performing both functions, depending on context.

³ Paras. 146-167 of the Contested Decision.

8. The same market reality can be observed in the sectors directly relevant to the present case. In publishing, audiovisual production and entertainment, the names of well-known authors and creators are used as commercial identifiers in connection with the exploitation of creative catalogues, licensing and related activities. This is illustrated, in the sectors relevant to the present case, by undertakings such as Agatha Christie Limited and The Walt Disney Company, which use the names of well-known authors and creators as commercial identifiers across publishing, audiovisual production, entertainment, licensing and related activities. That practice confirms that, also in relation to the goods and services in classes 9, 16 and 41, recognition of the individual does not render the name descriptive of content or subject matter or prevent it from identifying a commercial or authorising source.
9. This market reality is also reflected in the Office's registration practice. In relation to books, novels, printed matter, films and other creative works, it is standard practice and common understanding that the authors' names function, and are in fact used, as trade marks. The Office indeed registers names of popular contemporary (*i.e.* 20th century) authors and directors in the EU, as these personal names *do function* and *are being used* as trade marks for the relevant goods and services in classes 9, 16 and 41:
- “**Albert Camus**”⁴ (French novelist) for *i.a.* discs and digital media (cl. 9), printed matters and books (cl. 16) and publication of books and film production (cl. 41);
 - “**Agatha Christie**”⁵ (British novelist) for *i.a.* discs and recording materials (cl. 9), printed matters and books (cl. 16) and entertainment information and related services (cl. 41);
 - “**Charles Dickens**”⁶ (British novelist) for *i.a.* books and other printed matter and manuscripts (cl. 16);
 - “**Walt Disney**”⁷ (director) for *i.a.* discs and recording material (cl. 9), printed matter (cl. 16) and education and entertainment (cl. 41);
 - “**Umberto Eco**”⁸ (Italian novelist and philosopher) for *i.a.* electronic publications (cl. 9), printed matter and books (cl. 16) and entertainment, publishing services, publication of books and related services (cl. 41);
 - “**Ian Fleming**”⁹ (British novelist) for *i.a.* audio books and discs (cl. 9), printed matter and books (cl. 16) and publishing and entertainment services (cl. 41).
 - “**Gabriel García Márquez**”¹⁰ (novelist, Nobel Prize in Literature) for *i.a.* downloadable electronic publications (cl. 9), books and publications (cl. 16) and cultural and educational services (cl. 41);

⁴ EUIPO registered “Albert Camus” (EUTMs no. 11832458 and 18011967).

⁵ EUIPO registered “Agatha Christie” (EUTMs no. 836924, 11814159 and 18874347).

⁶ EUIPO registered “Charles Dickens” (EUTM no. 16960346).

⁷ EUIPO registered “Walt Disney” and “Disney” (EUTMs nos. 186601 and 186569).

⁸ EUIPO registered “Umberto Eco” (EUTM no. 19322386).

⁹ EUIPO registered “Ian Fleming” (EUTMs no. 2475234 and 13593983).

¹⁰ EUIPO registered “Gabriel García Márquez” (EUTM no. 8763691).

- “**Václav Havel**”¹¹ (Czech philosopher, dramatist and essayist) for *i.a.* discs and recording apparatus (cl. 9), printed matter (cl. 16) and education information and publication of books (cl. 41);
 - “**Hergé**”¹² (Belgian cartoonist) for *i.a.* publication and dissemination of books and other educational, cultural or entertainment services (cl. 41);
 - “**Stieg Larsson**”¹³ (Swedish novelist) for *i.a.* recording discs (cl. 9), printed matter (cl. 16) and publication of books and production of films (cl. 41);
 - “**Marcel Pagnol**”¹⁴ (French novelist) for *i.a.* printed matter (cl. 16);
 - “**Georges Simenon**”¹⁵ (Belgian novelist) for *i.a.* discs and recording media (cl. 9), printed matter and books (cl. 16) and publication of books and production of shows and films (cl. 41);
 - “**Olga Tokarczuk**”¹⁶ (Polish writer, Nobel Prize in Literature) for *i.a.* downloadable educational media and publications (cl. 9), novels, printed matter and books (cl. 16) and publication of audio books, entertainment and related services (cl. 41);
 - “**Tolkien**”¹⁷ (British novelist) for *i.a.* discs and audio recordings (cl. 9), printed matter and books (cl. 16) and publication of electronic books, provision of interactive entertainment and related services (cl. 41).
10. In the EU, these authors are not less known or less popular than George Orwell, often on the contrary.
 11. Many titles of their books and films are registered as EU trade marks as well.
 12. Names of fictional characters and heroes do usually also function as trade marks. This Court endorses¹⁸ the Office’s practice of registering and protecting names of characters¹⁹.
 13. Commonly, these trade mark registrations are owned by the heirs of or an undertaking linked to the author. These EU registrations are indeed crucial and necessary for controlling and sustaining the licenses and merchandising business and economy, in particular in the EU with a diversity of cultural and linguistic communities.

¹¹ EUIPO registered “Václav Havel” (EUTMs nos. 10924967 and 10605426).

¹² EUIPO registered “Hergé” (EUTM no. 5856497).

¹³ EUIPO registered “Stieg Larsson” (EUTM no. 7418221).

¹⁴ EUIPO registered “Marcel Pagnol” (EUTM no. 13692652).

¹⁵ EUIPO registered “Georges Simenon” and “Simenon” (EUTMs nos. 2055234, 2101491 and 8416034).

¹⁶ EUIPO registered “Olga Tokarczuk” (EUTM no. 18270996).

¹⁷ EUIPO registered “Tolkien” (EUTMs nos. 1491166, 2843332 and 17890638).

¹⁸ See GC, 13 May 2026, T-24/25, EU:T:2026:343, *Les Éditions Albert René v EUIPO – Lubiński (Obelix)*, paras. 48 and 79; GC, 30 June 2009, T-435/05, EU:T:2009:226, *Danjaq v OHIM – Mission Productions Gesellschaft für Film-, Fernseh- und Veranstaltungsproduktion*, paras. 27 and 28.

¹⁹ EUIPO registered for example TINTIN (a character in comic books and later in movies; EUTMs nos. 145151 and 1962638), CAPTAIN HADDOCK (character in comic books and later in movies; EUTM no. 1088608), PROFESSOR CALCULUS (character in comic books and later in movies; EUTM no. 1088376) or JAMES BOND (a character in books and movies; EUTMs nos. 251918 and 1205137) or even only his regimental number “007” (EUTMs nos. 251900 and 12195178) used as a code name in books and movies. EUIPO also registered the names of famous fictional pets, like SNOOPY (EUTMs nos. 5468988 and 8735003), IDEFIX (EUTMs nos. 16162, 1647097 and 5021308), SCOOBY-DOO (EUTMs nos. 1525500, 2193357 and 3427341), PLUTO (EUTMs nos. 5239371 and 3332772) and many more.

14. In the present case, it is undisputed that George Orwell was a British writer of high public recognition. His personal name is however not inapt to distinguish the relevant goods and services in classes 9, 16 and 41. In itself, his name does not describe characteristics of these goods and services. The fact that the sign is the name of a well-known British writer does not describe the “subject matter” of the goods and services. On the contrary, the name has and is perceived as having a double and simultaneous function: it is perceived both as the identity of the author, and also (*i.e.* at the same time) as a badge of origin for the goods and services since the public knows that such a name can only be affixed with the consent of those having the rights on it. It is a well-known fact that consumers know that books, electronic publications, works and merchandising items related to reputed contemporary authors are “not free” but, on the contrary, controlled (often strictly) by a single source, namely the right holder. The question whether the rights lie with the authors themselves, their editors, their heirs or an undertaking controlling the author’s legacy is, as such, not decisive. This is why the trade mark registration of authors’ names matters.
15. This well-known phenomenon is not peculiar to George Orwell, but actually applies to all reputed authors. Since the relevant public understands and expects that the author’s name is “not free”, even if said author died some years or perhaps some decades ago, the personal name fulfils its distinctive function.²⁰
16. INTA submits that the Contested Decision departs from the established approach, under which the application of Article 7(1)(c) EUTMR must be assessed in relation to the specific goods and services for which registration is sought, from the perspective of the average consumer and taking account of the normal commercial context in which the sign may be encountered. Assessed on that basis, the sign GEORGE ORWELL, like all other trade marks protecting personal names of reputed contemporary authors, will not be perceived as describing characteristics of discs, recording material, books and entertainment services (nor those of the other related goods and services listed in para. 4 of the Contested Decision).
17. INTA submits that the criterion of “denoting content” as “by or about” an author cannot be a valid criterion under Article 7(1)(c) EUTMR, since the actual function of *any* name is to denote “by or about”. As this is the central point of reasoning in the Contested Decision, this should be sufficient to set it aside in its entirety.

²⁰ In this sense, the Court of Justice confirmed that average consumers have expectations when they are confronted with the use of a designer’s name for clothing, because they know that that name is protected and is “not free”, even if they are “conscious of the fact that not all the goods bearing a trade mark corresponding to the name of a designer necessarily have been created by that designer” (CJEU, 18 December 2025, C-168/24, EU:C:2025:986, *PMJC*, para. 36). In the same vein, consumers *expect* protection of personal names of contemporary authors. This is even more true when it is in line with the Office’s standard practice and common market reality.

18. Even assuming that the “subject matter” or “content” of these goods and services be seen or considered as an “other characteristic” of them²¹ (other than their kind, quality, quantity, intended purpose, value, geographical origin or time of production of the goods or of rendering of the service), *quod non*, the public will not perceive that the personal name “*serve[s], in trade, to designate*” (pursuant to Article 7(1)(c) EUTMR) such “subject matter” or “content” of the goods and services, considered *in concreto*.
19. INTA submits that reputation, fame or public recognition of a sign (incl. a personal name) cannot be a factor for the assessment of alleged descriptiveness, except for assessing acquired distinctiveness through use under Article 7(3) EUTMR.
20. INTA fears that finding famous names ineligible for registration as they may allegedly describe the “subject matter” or “content” of the goods and services would be a drastic and negative change in protecting intellectual property in the EU. It would inevitably lead to the undesired conclusion that all names are (yet or very soon) ineligible for registration as they all denote content. In addition, content would apply to *all* goods and services.
21. In the Contested Decision and in its response, the Office attempted to minimize the impact of the argument by presenting its decision as being limited to the sole *in concreto* assessment of the GEORGE ORWELL sign, without any consequence on the Office’s general practice or market reality.²² However, by the Contested Decision and the likely negative consequences it will entail, the Office (which should be in charge of protecting intellectual property, which is a fundamental right under Article 17(2) of the Charter of Fundamental Rights of the European Union), is actually destroying the (already fragile) licenses and merchandising business and economy controlling and promoting the integrity, the memory of and education to the underlying works and legacy of these authors, whose names deserve to remain protected.
22. INTA recalls that Article 14 EUTMR allows third parties to make descriptive or reference use of a registered EU trade mark in the course of trade, admittedly “in accordance with honest practices in industrial or commercial matters”. Formally and strictly speaking, it is correct to state that such a defence in infringement proceedings “has no decisive bearing or intrinsic role to play in relation to the exclusion from registration”²³. However, in the case of trade marks protecting personal names of reputed authors, this provision gains relevance as its underlying rationale protects the freedom of third parties to make (and continue to) use of the name of these authors (like George Orwell) for mere reference or descriptive purposes.²⁴ What should remain forbidden (with the registration sought for) is that third parties start using the name also as a source identifier for the relevant goods and services. In the Contested Decision, the Office failed to make this important distinction.

²¹ See *i.a.* paras. 68-70 and 77 of the Contested Decision.

²² See paras. 22-26 of the Office’s response.

²³ Para. 145 of the Contested Decision.

²⁴ See GC, 10 May 2006, T-279/03, EU:T:2006:121, *Galileo International v Commission*, para. 150.

23. In light of the foregoing, INTA submits that the approach adopted in the Contested Decision departs from the assessment required under Article 7(1)(c) EUTMR by placing undue weight on the reputation of the individual and the public's association of that individual with a particular field. The relevant question is, rather, whether, from the perspective of the average consumer and in relation to the specific goods and services concerned, the name will be perceived as directly describing one of their characteristics. The "by or about" criterion cannot replace that legal test or lower the threshold for treating subject matter as an "other characteristic" within Article 7(1)(c) EUTMR.
24. In any event, the consequences of that approach are not confined to authors' names or to the goods and services in classes 9, 16 and 41. If the association between a well-known person and the field in which that person acquired a reputation were regarded as sufficient to render the name descriptive, the same reasoning could apply to other well-known personal names used as trade marks for goods or services connected with that field. This could have implications for personal-name and patronymic marks in sectors such as fashion, luxury goods, automotive products, sport and design. The approach thus gives rise to a broader structural concern: the greater the reputation of the name and the wider the associations it evokes, the greater the possibility that its registrability may be called into question. Public recognition and commercial success could therefore operate against the registrability of a name, even where it is capable of functioning in trade as an indication of commercial origin. Such a result would be difficult to reconcile with the restrictive approach to the grounds for refusal reflected in Article 6*quinquies*(B)(2) of the Paris Convention and with the structure of the EU trade mark system itself, under which personal names are expressly capable of registration.

5 COSTS

25. INTA does not request that a main party be ordered to pay costs. INTA agrees to bear its own legal expenses.

Under all reservations of rights,

FOR THESE REASONS,

MAY IT PLEASE THE GENERAL COURT OF THE EUROPEAN UNION TO:

- 1. Set aside the decision of the Office's Grand Board of Appeal of 19 December 2025 in case R 2248/2019-G; and**
- 2. Declare that INTA shall bear its own costs.**

Florence, Berlin, Amsterdam and Brussels, 28 August 2026

Ms Noemi Parrotta, *avvocata*

Mr Andreas Lubberger, *Rechtsanwalt*

Mr Gregor Vos, *advocaat*

Mr Tanguy de Haan, *avocat*