

# Chanel loses interlocking 'Cs' TM case against Huawei

22-04-2021

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[Chanel](#) has failed to stop [Huawei](#) from using a trademark that the fashion house had argued bore too much resemblance to its own logo after an EU court ruled that the marks were not similar. The [decision](#) was delivered by the fifth chamber of the [EU General Court](#) on Wednesday, April 21. The court ruled while the logos share some similarities, their visual differences were significant.

In September 2017, the Chinese tech company sought to register a computer hardware trademark at the [EU Intellectual Property Office](#) (EUIPO) that featured two vertical interlocking semi-circles.

In December 2017, Chanel opposed the application saying that the design was too similar to its registered French logo of two horizontal interlocking semi-circles that feature on the branding of its perfumes, cosmetics, costume jewellery, leather goods and clothing.

In March 2019, EUIPO's opposition division found against these arguments, holding there was no similarity or likelihood of confusion among consumers.

## **Different structure and elements**

Chanel appealed the decision but EUIPO's fourth board of appeal upheld the earlier decision. The board found that from a visual point of view "the marks had a different structure and were composed of different elements".

The board said: "The mere presence, in each of the marks at issue, of two elements that are connected to each other does not render the marks similar even though they share the basic geometric shape of a circle surrounding those elements."

The board also found that the mere fact that both logos have the geometric shape of a circle cannot make them conceptually similar.

The French fashion label challenged the ruling at the Luxembourg-based court, holding that the board had erred in its decision.

### **Chanel: 'rotated marks are similar'**

According to Chanel, the board had failed to take into account that when Huawei's mark is rotated by 90 degrees, the marks are "visually similar to an average degree". The fashion house also contended that the board was wrong when it found the marks to be conceptually dissimilar, because "there was no need to carry out a conceptual comparison".

But the court this week found that the board was correct in its assertion that the visual differences in the two logos were significant.

It found that the circle, present exclusively in Huawei's mark, surrounds the curves contained in its centre and gives that mark "a specific arrangement and proportions" that are not present in Chanel's mark.

"Even though the marks at issue share characteristics, namely two black interlaced curves intersecting in an inverted mirror image, a central ellipse resulting from the intersection of the curves, the absence of a circle in the earlier mark and a consequent arrangement rules out any visual similarity," said the court.

The court concluded that the marks were therefore different, and dismissed Chanel's appeal. The latest decision can also be appealed to the [Court of Justice of the European Union](#).

"The decision seems fair in the sense of the court's assessment of the criteria to meet the threshold for infringement of a reputed mark, and infringement of an earlier mark due to an established likelihood of confusion on the part of the public," explained Annabelle Crefovi, founding partner of London fashion law firm, [Crefovi](#).

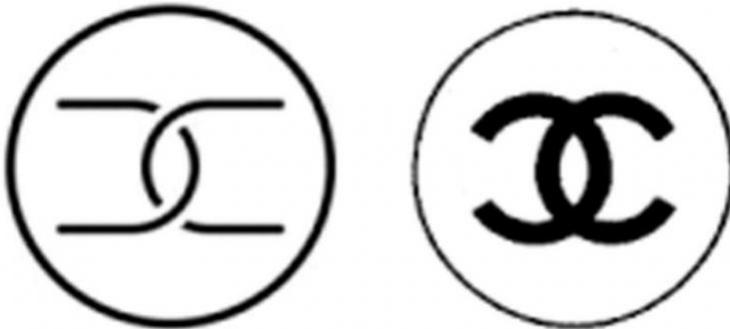
"Such criteria were not met, as the two marks are visually too different, and produce a very different overall impression. There is no likelihood of confusion because these two marks will not be used, and will not apply, to the same members of the public, since Chanel only sells luxury products to an upper class public, while Huawei targets a middle-class to premium public and customer base. Therefore, the public targeted by those two marks is not the same and there will be no likelihood of confusion as a result."

She added that while Chanel probably knew the likely outcome of this case, the fashion house decided to pursue it to the "bitter end nonetheless, not only for dilatory reasons", but also to implement its systematic 'zero tolerance for infringement' policy".

Also commenting on the decision, Simon Clark, partner at [Bristows](#), said: "As the marks were figurative, the comparison to decide whether the two marks were similar had to be made purely based on their visual similarity, because they were not conceptually similar and it was not possible to make a phonetic comparison.

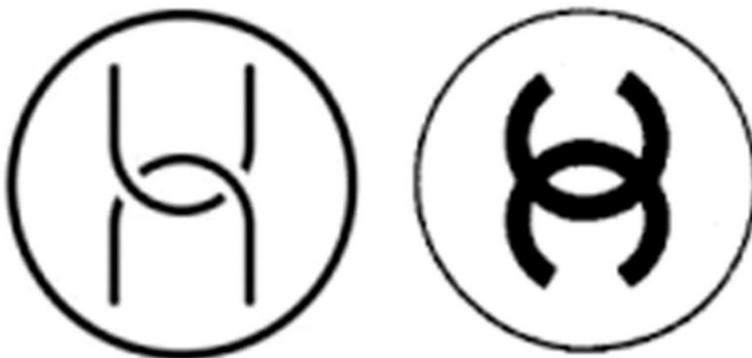
"The court rejected Chanel's argument that the visual comparison should be made when Huawei's mark was rotated through 90 degrees, saying that trademarks had to be considered on the basis of the shapes and orientations in which they were applied for when making the comparison. Once that had been decided, it was a reasonable finding that the two marks were not visually similar, and so there was no trademark infringement."

Robert Reading, director, government & content strategy, IP group at [Clarivate](#), believed the decision was interesting for several reasons.



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"Firstly it highlights the subjectivity of similarity when it comes to devices. In this instance, the court has decided that although the two devices have similarities, they have sufficient important differences—the thickness of the lines, the curves, the orientation—that overall make the two trademarks distinguishable, ie, the differences outweigh the similarities," he said.



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Reading added that the court's interpretation of the logos' orientation was the most interesting aspect.

"Unlike words, devices often do not have a 'natural' orientation to the human eye. The Chanel mark is understood to represent interlocking 'Cs', and the Huawei logo interlocking 'Us' or links, but if the orientation changes, this interpretation, and the similarity, can change significantly.