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Brand parody in politics: CJEU sets limits for using famous trademarks

Can political campaigns borrow a famous brand to make their point? The EU's highest court on free speech and trademark protection – and what it means for brand owners.

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EU TRADEMARK LAW · COURT OF JUSTICE OF THE EU

Brand parody in politics: CJEU sets limits for using famous trademarks

Can someone use a famous brand to make a point? On 8 September 2026, the EU's highest court answered: sometimes – but free speech is no free ride on a famous trademark.

The case

In November 2022, a Belgian political party presented its immigration programme as the “IKEA plan” – an acronym for “Immigratie Kan Echt Anders” (“immigration really can be different”), illustrated with stick figures in the style of IKEA's assembly instructions. IKEA sued, and the Belgian court asked the Court of Justice of the EU for guidance (Inter IKEA Systems, C-298/23).

Why trademark law applies

Famous trademarks enjoy extra protection in the EU. Their owner can act even against use far outside its own market – such as in politics – if the use exploits or harms the brand's reputation, unless there is “due cause”, i.e. a justifying reason.

The ruling

The Grand Chamber held that freedom of expression, including political opinion and parody, can in principle be such a reason. Simply invoking free speech is not enough, however: the user must show why it needs this particular brand to make its point, and why that outweighs the owner's rights. Use that genuinely comments on the brand itself weighs more than use that merely borrows a famous name to attract attention. Here, the Court indicated that the balance appears to favour IKEA; the final decision lies with the Belgian court.

TAKEAWAYS FOR BRAND OWNERS

- Parody, memes or campaigns using your brand are neither automatically lawful nor automatically infringing.
- The key question: does the use comment on your brand – or just borrow its fame?
- Document how the use exploits or harms your brand's reputation before taking action.

COPYRIGHT & PRODUCT DESIGN · FEDERAL COURT OF JUSTICE

Design classics as works of art – and what that means for spare parts

Can a piece of furniture be protected like a painting? Germany's Federal Court of Justice has applied the EU's uniform standard to the iconic USM Haller system – with consequences for anyone selling compatible parts.

The case

The USM Haller system – chrome tubes joined by ball connectors, with coloured metal panels – has been sold for decades. A competitor offered spare and extension parts for it in its online shop, largely matching the originals in shape and colour, together with an assembly service. USM claimed copyright infringement; the Higher Regional Court of Düsseldorf had denied protection.

The ruling

On 2 July 2026 (I ZR 96/22), the court applied the CJEU's Mio/konektra judgment of December 2025 (see our Q4 2025 issue): product designs do not need to clear a higher bar than other works. What counts is whether the designer made free, creative choices that are visible in the product; features dictated by technical function do not count.

The court set the appeal judgment aside and sent the case back. Whether USM Haller is protected is therefore still open.

Why it matters

A registered EU design lasts at most 25 years; copyright lasts until 70 years after the designer's death. For design classics, copyright can become the decisive long-term protection – including against compatible parts.

TAKEAWAYS FOR PRODUCT COMPANIES

- Keep records of the creative design process: sketches, alternatives and the reasons for your choices.
- Before launching products or spare-part ranges, check copyright – not only registered designs.
- Registered designs remain the fastest route to protection; copyright is the long-term backstop.

PACKAGING DESIGN · EU REGULATION

Smaller packaging, weaker brands?

How the new EU packaging rules affect shapes and designs

Since 12 August 2026, the EU Packaging and Packaging Waste Regulation (PPWR) applies. From 2030, packaging must be cut to what is functionally necessary – a challenge for distinctive bottles, jars and boxes.

What changes

The PPWR replaces the old packaging directive with rules that apply directly in every EU country – on recyclability, recycled content, labelling and more. From 1 January 2030, packaging must be designed so that its weight and volume are limited to what its function requires. Features that only make a product look bigger, such as double walls, false bottoms or unnecessary layers, are banned.

The exception for brands

Many products are recognised by their packaging – a bottle shape protected as a design or as a three-dimensional trademark. The PPWR therefore exempts packaging whose protected design or trademark would lose its distinctive effect if the packaging were minimised. But only rights protected before 11 February 2025 qualify; newer filings do not help.

Green claims, too

The PPWR also restricts environmental claims about packaging. And from 27 September 2026, the EU's new rules against greenwashing apply (see our Q1 2026 issue).

TAKEAWAYS FOR BRAND OWNERS

- List the packaging shapes that carry brand value and check whether – and since when – they are protected.
- Secure evidence of protection before 11 February 2025; you may need it to rely on the exception.
- Involve your IP advisers early in any packaging redesign for 2030.

LUXURY BRANDS · HIGHER REGIONAL COURT DÜSSELDORF

Luxury on the bargain table: when brands can stop the resale of genuine goods

Once genuine goods are sold in the EU, the brand owner normally cannot control their resale. A Düsseldorf ruling shows where that freedom ends – and its reasoning reaches beyond physical stores.

The principle

Under EU trademark law, the brand owner's rights in a product are "exhausted" once it has put that product on the EU market: anyone may resell it. The exception: the owner has legitimate reasons to object – for example, where the way the goods are presented seriously damages the brand's reputation.

The case

A luxury cosmetics group objected to how an off-price retailer sold its prestige brands: in large, unsorted, partly overfilled bins, some with torn packaging or handwritten price labels. On 10 February 2026 (20 U 89/25), the Higher Regional Court of Düsseldorf confirmed a preliminary injunction: the "bargain bin" presentation harmed the brands' luxury image.

The limits

The ruling is no general ban on discount sales. Selling outside the brand's own distribution network or at lower prices is not enough on its own – what matters is the concrete presentation. Commentators expect the same logic to apply online, for example to poor product pages or damaged returns on marketplaces.

TAKEAWAYS

- Brand owners: document the actual sales environment – photos, test purchases, packaging condition.
- Target the presentation, not the resale as such; claims against lawful resale alone will fail.
- Retailers: genuine goods are not risk-free – presentation matters, online too.



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