



**HAL**  
open science

## Relations between quality of trademarks and cognitive and conative variables of consumers

Goce Naumovski

► **To cite this version:**

Goce Naumovski. Relations between quality of trademarks and cognitive and conative variables of consumers. Law. Université de Strasbourg, 2018. English. NNT : 2018STRAA003 . tel-02056339

**HAL Id: tel-02056339**

**<https://theses.hal.science/tel-02056339v1>**

Submitted on 4 Mar 2019

**HAL** is a multi-disciplinary open access archive for the deposit and dissemination of scientific research documents, whether they are published or not. The documents may come from teaching and research institutions in France or abroad, or from public or private research centers.

L'archive ouverte pluridisciplinaire **HAL**, est destinée au dépôt et à la diffusion de documents scientifiques de niveau recherche, publiés ou non, émanant des établissements d'enseignement et de recherche français ou étrangers, des laboratoires publics ou privés.

**ÉCOLE DOCTORALE DE SCIENCES JURIDIQUES**  
**Centre d'Etudes Internationales de la Propriété Intellectuelle (CEIPI)**

## **THÈSE** présentée par : **Goce NAUMOVSKI**

soutenue le : 19 septembre 2018

pour obtenir le grade de : **Docteur de l'université de Strasbourg**

### **Relations entre la qualité des marques et les variables cognitives et conatives des consommateurs**

Discipline/ Spécialité : Propriété intellectuelle

**THÈSE dirigée par :**

**M. Théo Hassler**

Professeur HDR, Université de Strasbourg

**RAPPORTEURS :**

**M. Thomas Hatzigayos**

Professeur, Université de Macédoine, Thessalonique, Grèce

**M. Gorazd Rosoklija**

Professeur, Université Columbia, New York, États-Unis

---

**AUTRES MEMBRES DU JURY :**

**M. Yann Basire**

Maître de conférences HDR, Université de Strasbourg

**Mme Caroline Le Goffic**

Maître de conférences, Université Descartes, Paris

**M. Stefan Martin**

Membre de Chambres de recours, EUIPO, Alicante, Espagne

**RELATIONS BETWEEN QUALITY OF TRADEMARKS AND  
COGNITIVE AND CONATIVE VARIABLES OF CONSUMERS**

Doctoral Dissertation

*Submitted by:*

**GOCE NAUMOVSKI**

*Under the supervision of*

Professor **THÉO HASSLER**

Jury members:

**Thomas Hatzigayos**, *Associate Professor*, University of Macedonia in Thessaloniki

**Gorazd Rosoklija**, *Associate Professor*, Columbia University in the City of New York

**Yann Basire**, *Associate Professor*, University of Strasbourg

**Caroline Le Goffic**, *Associate Professor*, Paris Descartes University

**Stefan Martin**, *Member*, Boards of Appeal, European Union Intellectual Property Office

**Théo Hassler**, *Professor*, University of Strasbourg

My sincere gratitude to professor Théo Hassler, for his great support and advice.

I warmly thank professors Hatzigayos, Rosoklija, Basire, Le Goffic and Mr. Martin for their  
reviews and recommendations.



## Contents

1. INTRODUCTION .....	9
1.1. Trademark Law Developments & Theoretical Considerations.....	13
1.1.1. Historical Aspects .....	13
1.1.2. Taxonomies of Trademarks .....	18
1.1.3. Classical Trademark Approach and International Legal Sources.....	21
1.1.3.1. Traditional Definition .....	21
1.1.3.2. Types of Trademarks According to the Holder .....	23
1.1.3.3. International Legal Framework.....	25
1.1.3.3.1. Paris Convention for Protection of Industrial Property (1883).....	25
1.1.3.3.2. The Madrid Agreement Concerning the International Registration of Marks (1891) and the Protocol Relating to the Madrid Agreement (1989).....	31
1.1.3.3.3. The Trademark Law Treaty (1994).....	33
1.1.3.3.4. Singapore Treaty on the Law of Trademarks (2006).....	35
1.1.3.3.5. The Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957).....	36
1.1.3.3.6. The Vienna Agreement Establishing and International Classification of the Figurative Elements of Marks (1973).....	41
1.1.3.3.7. The Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) (1994).....	43
1.1.3.4. The Relationship Between Trademarks and Geographical Indications.....	47
1.1.3.4.1. Geographical Indications Functions .....	50
1.1.3.4.2. EU Legislative Approach.....	51
1.1.3.4.3. Similarities and Differences of Geographical Indications and Trademarks ....	53
1.1.3.5. The Relationship Between Trademarks and Domain Names .....	56
1.2. Recent Theoretical Approaches Concerning Trademark Law .....	63
2. THE CONCEPT OF HUMAN COGNITIVE ABILITIES AND CONATIVE CHARACTERISTICS .....	69

2.1. Cognitive Abilities .....	69
2.2. Conative Characteristics.....	78
3. PRECEDING STUDIES ON TRADEMARKS AND CONSUMERS .....	83
4. AIM, SCOPE AND HYPOTHESES OF THE RESEARCH .....	95
4.1. Hypotheses.....	95
4.2. Theoretic and Practical Significance of the Research.....	96
5. RESEARCH METHODS .....	98
5.1. Sample of Subjects.....	98
5.2. Variables' Sample.....	98
5.2.1. Trademarks' assessment tests .....	98
5.2.2. Cognitive abilities and Conative Characteristics Assessment Tests.....	170
6. RESULTS AND DISCUSSION.....	180
6.1. Basic Descriptive Statistical Parameters for the Trademarks and Cognitive and Conative Variables treated in the Research .....	180
6.2. Factor Analysis .....	188
6.2.1. Inter-Correlation of Trademark Variables .....	188
6.2.2. Method of Principal Components of Trademark Characteristics .....	201
6.2.3. Definition of Statistically Significant Principal Components.....	204
6.2.4. Trademark Characteristics Varimax Factors .....	210
6.2.5. Trademark Characteristics' Oblimin Factors (Pattern and Structure Matrixes) ..	217
6.2.6. Inter-correlation of Statistically Significant Oblimin Factors .....	233
6.3. Trademark Characteristics Secondary Factors.....	236
6.3.1. Principal Components' Eigenvalues (Level 2) .....	236
6.4. Trademark Characteristics Tertiary Factors.....	247
6.5. Trademark Characteristics Quaternary Factors (Q1-Q2).....	252
6.6. Factor Analysis of the Cognitive Abilities and Conative Characteristics.....	256
6.6.1. Correlations among the Cognitive Abilities and Conative Characteristics Variables .....	256
6.6.2. Eigenvalues of Cognitive and Conative Variables .....	259
6.6.3. Cognitive and Conative Secondary Factor (Level 2).....	263
6.7. Regression Analysis Of The Trademark Characteristics Factors And The Cognitive And Conative Variables.....	266
6.7.1. Regression Analysis in Combined Space of the Trademark Characteristics Primary Factors (F1-F28) with the Cognitive and Conative Variables .....	267

6.7.1.1. Trademarks Visual and Figurative Similarity Factor (F1).....	267
6.7.1.1.1. Trademarks Visual and Figurative Similarity Jurisprudence Example: Bimbo/OHIM Case (C-591/12 P; ECLI:EU:C:2014:30).....	270
6.7.1.2. 2nd Trademark Characteristics' Factor (F2).....	272
6.7.1.3. Factor of Distinctiveness (Denominations) and Figurative Signs (F3) .....	274
6.7.1.3.1. BioID AG/Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), (C-37/03 P; ECLI:EU:C:2005:547).....	275
6.7.1.4. Factor of Trademark Guarantee Function (F4).....	277
6.7.1.4.1. L'Oréal SA, Lancôme parfums et beauté & Cie SNC, Laboratoire Garnier & Cie/Bellure NV, Malaika Investments Ltd, trading as 'Honey pot cosmetic & Perfumery Sales', Starion International Ltd Case (C-487/07; ECLI:EU:C:2009:378) .....	278
6.7.1.5. 5th Trademark Characteristics' Factor (F5).....	281
6.7.1.5.1. FCUK, Trade mark Application Number: 2184549 (Case: 0-137-06).....	283
6.7.1.5.2. PAKI Logistics v OHIM (PAKI) (Case T-526/09; ECLI:EU: T: 2011:564).....	284
6.7.1.5.3. Case R 137/2000-1 (Decision of the First Board of Appeal of 30 November 2000 relating to Community trade mark application No 811281).....	286
6.7.1.6. Factor of Telecommunications Products (F6).....	290
6.7.1.7. Factor of Stylized Letters(F7).....	291
6.7.1.7.1. Case R 566/2005-2 (Muswellbrook, Ltd. vs. Nike International, Ltd (Decision of the Board of Appeal relating to opposition proceedings No B 140 634 (Community trade mark application No 827 824) .....	292
6.7.1.8. Factor of Descriptiveness (Ingredient or Quality) and Trade Dress Similarity (F8).....	294
6.7.1.8.1. Case R 1215/2000-3 – HYPERLITE (Applicant H.O. SPORTS, INC) .....	295
6.7.1.9. 9th Trademark Characteristics' Factor (F9).....	298
6.7.1.10. Color Trademark Factor (F10-F13) .....	299
6.7.1.10.1. Heidelberger Bauchemie GmbH (C-49/02; ECLI:EU:C: 2004:384).....	302
6.7.1.11. Factor of Bad Faith Trademark Application (F14).....	305
6.7.1.11.1. Chocoladefabriken Lindt & Sparingly AG v. Franz Hauswirth GmbH .....	307
(Case C-529/07; ECLI:EU:C: 2009:361).....	307
6.7.1.12. Factor of Phonetical (Aural) Similarity(F15) .....	309
6.7.1.12.1. Phonetical Similarity Jurisprudence : Lloyd Schuhfabrik Meyer & Co. GmbH/Klijnsen Handel BV (Case C-342/97;ECLI:EU:C:1999:323).....	310
6.7.1.13. 16th-19th Trademark Characteristics' Factor (F16, F17, F18, F19, F20) .....	312
6.7.1.14. Factor of Three-Dimensionality (F21).....	316

6.7.1.14.1. Unilever NV v. OHIM (Case T-194/01; ECLI:EU: T:2003:53),.....	317
6.7.1.15. 22nd, 23rd and 24th Trademark Characteristics' Factors (F22nd-24th).....	321
6.7.1. 16. Factor of Description of Time of Production or Technical Characteristics of goods (F25) .....	323
6.7.1.16.1. Case R 1335/2006-2; FANTASIA/FANTASIA (Applicant: Disney Enterprises, Inc.) (Registered form: Fantasia, Actual use: Fantasia 2000 ).....	324
6.7.1.17. Factor of Facebook User Regulations Awareness(F26) .....	328
6.7.1.18. Factor of Frequency of Internet Search Engines Use and Cybersquatting (F27) .....	329
6.7.1.19. Factor of Estimation of Product Quality (F28) .....	330
6.7.2. Regression analysis of the Trademark Characteristics Secondary Factors (S1-S11) with the Cognitive and Conative Variables .....	331
6.7.3. Regression Analysis of the Trademark Characteristics Tertiary Factors (T1-T4) with the Cognitive and Conative Variables .....	341
6.7.4. Regression analysis of the Trademark Characteristics Quaternary Factors (Q1-Q2) with the Cognitive and Conative Variables .....	344
6.7.5. Regression Analysis of the General (Quinary) Trademark Quality Factor (TMQ) with the Cognitive and Conative Variables .....	346
6.7.6. Regression Analysis in Latent Space .....	347
6.8. Canonical Correlation Analysis Between The Cognitive And Conative Variables And The Trademark Characteristics Variables.....	376
7. CONCLUSIONS.....	395
LITERATURE.....	405
Appendix D:Trademark Characteristics Primary Factors.....	423
Appendix E: Trademark Characteristics Secondary, Tertiary, Quaternary Factors and The Quinary (General Trademark Quality) Factor Obtained From the Hierarchical (Multi-Level) Factor Analysis .....	424
Appendix F: Cognitive Abilities and Conative Characteristics Factors (Confirmatory Factor Analysis) .....	425

*Dedicated to my beloved father, mother and brother.*

# 1. INTRODUCTION

In up-to-date industrial property theory, legislation and jurisprudence, in most cases, the approaches for definition of trademark characteristics are often constructed on the foundations of speculative and ambivalent non-scientific techniques, which usually leads to insufficient exactness in the creation, registration, legal protection and assesment of the economic value of trademarks.

Hence, the relevance of the research derives from the indispensability for efficient determination of the trademark characteristics, based on qualitative and quantitative scientific approach. Several authors (Lee<sup>1</sup>; Beebe,<sup>2</sup> Anten,<sup>3</sup> Swan,<sup>4</sup> Liefeld,<sup>5</sup> Jacoby,<sup>6</sup> Zaichkowsky<sup>7</sup>) outline this problem. For instance, in one of their articles devoted to examination of the position of consumers in trademark research, Lee, Christensen and De Rosia state that “*trademark law rests on an amorphous foundation*“... and that “*..although the ordinary consumer’s mindset is central to trademark law and policy, neither courts nor commentators have made any serious attempt to develop a framework for understanding the conditions that may affect the attention that can be expected to be given to a particular purchase*”<sup>8</sup>.

In the same context, Jacoby has outlined the importance of cognitive science, due to its impact on the application of trademark law.<sup>9</sup>

---

<sup>1</sup> Lee, T.R., Christensen, G.L., DeRosia, E.D. (2008), Trademark Consumer Psychology, and the Sophisticated Consumer, Emory Law Journal, 57,575.

<sup>2</sup> Beebe, B. (2005). Search and Persuasion in Trademark Law . Mich. Law Review, 103, 2020.

<sup>3</sup> Anten, T. (2006). In Defense of Trademark Dilution Surveys: A Post-Mosley Proposal, Columbia Journal of Law and Social Problems, 39(1), 1-45.

<sup>4</sup> Swann, J.B. (2006). An Interdisciplinary Approach to Brand Strength, Trademark Reporter, 96, 943-976.

<sup>5</sup> Liefeld, J.P. (2003). How Surveys Overestimate the Likelihood of Consumer Confusion, Trademark Reporter, 93, 939-963.

<sup>6</sup> Jacoby, J. (2001). The Psychological Foundations of Trademark Law: Secondary Meaning, Genericism, Fame, Confusion and Dilution, Trademark Reporter, 91, 1013-1071.

<sup>7</sup> Zaichkowsky, J.L. (2006). The Psychology Behind Trademark Infringement and Counterfeiting, Mahwah, New Jersey and London: Lawrence Erlbaum Associates.

<sup>8</sup> Lee, T.R. supra note 1.,575.

<sup>9</sup> Jacoby, J. (2001). The Psychological Foundations of Trademark Law: Secondary Meaning, Genericism, Fame, Confusion and Dilution, Trademark Reporter, 91,p. 1014-1015.

Numerous authors (such as Simonson<sup>10</sup>, Lipton,<sup>11</sup> Silber,<sup>12</sup>; Werkman<sup>13</sup>), have also indicated the significance of an interdisciplinary approach in trademark studies. A number of trademark litigation examples have also demonstrated the essential significance of the function of trademarks as symbols, i.e. the inalienable bond between trademark law and cognitive science approach.

According to Simonson, “*predictions of reality will be guided less by intuition and more by real evidence and arguments based on firm behavioral underpinnings*”.<sup>14</sup> Similarly, Lipton outlines that even though there are certain social science studies of the legal system, there is still no adequate clear understanding by the law concerning the manner for utilizing the scientific results<sup>15</sup>.

Since trademarks are creations of the human mind, their perceiving is also a complex issue that involves spectrum of socioeconomic and anthropological phenomena that affect the consumers of the decision to make the choice for a certain product or service.

Theory reasonably suggests that understanding trademarks by consumers is affected by cultural, religious, sociological and other influences and that one cannot neglect the ideas and rules of the living and working milieu of the consumer.<sup>16</sup> Werkman furthermore outlines an important aspect in this surrounding: consumers’ individual characteristics:<sup>17</sup>

*“.... The interpretation of trademarks is affected by past and present environments, education, religion and culture, and by the physical and psychological characteristics of the consumer. Some of these influences strengthen each other, other counteract each other, others are very weak. It is clear that a manufacturer cannot take such a complicated pattern wholly into account when he chooses trademarks for his products. He will have to try to deal with the largest number of factors applying to the largest number of prospective*

---

<sup>10</sup> Simonson, A.F. (1993). How and When do Trademarks Dilute: A Behavioral Framework to Judge “Likelihood” of Dilution, Trademark Reporter, 83, 149.

<sup>11</sup> Lipton, J.P. (1988). A New Look at the Use of Social Science Evidence in Trademark Litigation, Trademark Reporter, 78, 32.

<sup>12</sup> Silber, N.I (1990). Observing Reasonable Consumers : Cognitive Psychology, Consumer, Behavior and Consumer Law. Loyola Consumer Law Reporter, 2(3), 69-75.

<sup>13</sup> Werkman, C.J. (1974), Trademarks. Their Creation, Psychology and Perception, New York: Barnes and Noble.

<sup>14</sup> Simonson , A.F. (1993), supra note 10, p.83.

<sup>15</sup>Lipton, J.P. (1988), supra note 11., p.32.

<sup>16</sup> Werkman, C.J. (1974), supra note 13, p.132-133.

<sup>17</sup>Ibidem.

*consumers simultaneously, thus trying to induce that group of consumers to buy his products. “*

The same author also alarms that the intuitive design or choice of trademarks by manufacturers, also leads to intuitive trademark examination and registration, which has a consequence on the trademark strength, in most cases by losing the distinctiveness. Hence, “the intuitive method of trademark design, will have to be replaced by selecting trademarks on the basis of scientific trademark analysis”<sup>18</sup>

When it comes to trademark law, it is quite obvious that legal standards should encompass findings pertinent to interdisciplinary research of consumers characteristics. As Silber points out, “courts and legislators would be unwise to ignore the accumulating empirical evidence about how consumers actually make decisions”.<sup>19</sup>

Social science and personality research have traditionally been focused on criminology and similar areas and affiliated to criminal and public law. However, civil law and intellectual property law should not be isolated from the advantages provided by application of methodological procedures proven in social sciences, leading to objective scientific findings, exceptionally beneficial to legal theory and practice.

Walker and Monahan, in several articles<sup>20</sup>, have continuously affirmed the inevitability of uses of social science research data in the legal practice, examining the possibility to legally accept the data as a mode to prove a legal claim, illustrating in this context a trademark infringement litigation case (*Processed Plastic Co. v. Warner Communications*).<sup>21</sup> In this case, The Processed Plastic Company, without having a license from Warner, was selling a toy-car, very similar to the toy-cars, replicas from "The Dukes of Hazzard" television series, owned by Warner Communications. During the trial, Warner presented a survey that 83% of the children in the survey identified the disputable toy-car (Processed Plastic car) to be "Dukes of Hazzard" car, so the court ruled for creating consumer confusion. by The Processed Plastic Company, and thus violation of the Lanham Trademark Act<sup>22</sup>.

---

<sup>18</sup> Ibidem.

<sup>19</sup> Silber, N.I.(1990), supra note 12,p.73.

<sup>20</sup> Walker, L., Monahan, J.(1988), Social Facts: Scientific Methodology as Legal Precedent, California Law Review, 76 (4), 877-896.

<sup>21</sup> *Processed Plastic Co. v. Warner Communications*,675 F.2d 852 (7th Cir. 1982).

<sup>22</sup>Walker, L., Monahan, J.(1988), supra note 18, p. 880.



It seems the most evident argument for this interdependence of trademark law and other social sciences and humanities in the US trademark jurisprudence, is presented by judge Felix Frankfurter of the Supreme Court, who has written:

*“The protection of trade-marks is the law's recognition of the psychological function of symbols. If it is true that we live by symbols, it is no less true that we purchase goods by them. A trade-mark is a merchandising short-cut which induces a purchaser to select what he wants, or what he has been led to believe he wants. The owner of a mark exploits this human propensity by making every effort to impregnate the atmosphere of the market with the drawing power of a congenial symbol.”*<sup>23</sup>

With respect to the EU trademark law jurisprudence analysis, various authors, such as Griffiths,<sup>24</sup> have also undoubtedly suggested that the question of “certain intangible (mental) characteristics” with reference to product quality, is crucial in some of the rulings of the Court of Justice of the European Union, especially in the case of luxury goods:

*“...the quality of luxury goods such as the ones at issue in the main proceedings is not just the result of their material characteristics, but also of the allure and prestigious image which bestows on them an aura of luxury .... since luxury goods are high-class goods, the aura of luxury emanating from them is essential in that it enables consumers to distinguish them from similar goods. Therefore, an impairment to that aura of luxury is likely to affect the actual quality of those goods.”*<sup>25</sup>

For the purpose of increased effectiveness of trademark quality valuation, it is essential to study the liaison of trademarks with other social factors and personality factors, including the anthropological status of consumers. One part of the anthropological status are in fact consumers' intellectual abilities, on which the trademark quality is dependent.

---

<sup>23</sup> Opinion of the US Supreme Court: *Mishawaka Rubber & Woolen Mfg. Co. v. S. S. Kresge Co.*, 316 U.S. 203 (1942).

<sup>24</sup> Griffiths, A. (2003). Quality in European Trade Mark Law. *Northwestern Journal of Technology and Intellectual Property*, 11(7), 621-642.

<sup>25</sup> Copad, C-59/08, :EU:C:2009:260, point 24, 25, 26.

## 1.1. Trademark Law Developments & Theoretical Considerations

### 1.1.1. Historical Aspects

It is undeniable that we could speak about protection of intellectual property rights, only after the second half of the 19th century. Certainly, this does not mean that there were no previous inceptions of intellectual property, but the way we conceive the intellectual property law today is of later date.

The adoption of the 1883 Paris Convention for the Protection of Industrial Property and the 1886 Berne Convention for the Protection of Literary and Artistic Works, did not mean introduction of a concept with no historic background. The idea of this section is to identify the historical background of the contemporary trademark law, by analysing certain historical and legal sources.

In the very beginnings, in the ancient civilizations such as Egypt and Babylon, as Lehner suggests,<sup>26</sup> the symbols and the marks on the products are in fact the inscriptions of the rulers and masters and not those of the actual producers (in most cases slaves), since “*artwork of every description was signed with the names of the masters and not the artists.*”<sup>27</sup>

Symbols for marking have been used by producers of bricks, leather, weapons, domestic dishes and other items since earliest times. For instance, the marks for the wines from Corinth, honey from Sicily, and marble from Paros and Carrare are well known. Manufacturers and craftsmen created marks for marking their products, and later marks that guaranteed not only the place of origin of the product, but also the special quality.<sup>28</sup>

Ancient Rome is probably most interesting for analysis, also since it is the best example in history where the legal response to the societal challenges is characterized by precision and consistency, which can be easily noticed through the analysis presented below.<sup>29</sup> Attempts for

---

<sup>26</sup> Lehner, E. (1950). Symbols, Signs and Signets. New York: Dover Publications.

<sup>27</sup> Ibidem.

<sup>28</sup> See Polenak Akimovska, M., Dabovik Anastasovska, J., Buckovski, V., Pepeljugoski, V., Varga, L. (2005). Pravo na industriska sopstvenost [Industrial Property Law . In Macedonian]. Drzaven zavod za industriska sopstvenost, Skopje, p. 326.

<sup>29</sup> For the relations between roman law and intellectual property see: M. Polenak Akimovska, V. Buckovski, G. Naumovski, N. Gavrilovik (2016). Niakoi paraleli mezdu pravtata na intelektualna sopstvenost v rimskoto I v sovremenoto parvo i pospecialno odnosno avtorskoto i pravoto na trgovska marka [Certain Parallels Between

this tendency are easily noticed in the case of marks. In ancient Rome for instance, it was a standard that stones, bricks and marble blocks on buildings were marked. In general, objects made of clay were marked, as well as clay lamps. In addition, some metal commodities, vases, glass products, lead objects as well as bronze, golden and silver products were also marked.<sup>30</sup> One comes across pictorial marks, symbols marking local origin and time denotations. There are examples of using various symbols, like circles, crescent, wheels, palm or vine leaves and footprints.<sup>31</sup> These marks also contained inscriptions with the name of the person or the venture, sometimes abbreviations, and often combinations with the words “mano” (“by the hand of”) “official” (“workshop”) or “fecit” (“made by”). There are the examples of CATIM (Cati mano) (by the hand of Cato), OFALBIN (officina Albin) (Albinus’ workshop), COLLOFEC (Collo fecit) (made by Collo).<sup>32</sup> According to the available literature, even animals were marked to show the ownership, and not for business purposes.<sup>33</sup> The marking did not refer only to the massively produces products, but also to the individually produced ones.<sup>34</sup>

Undoubtedly marking was broadly developed in Ancient Rome,<sup>35</sup> as a continuation of the practice in Ancient Greece.<sup>36</sup> In the relevant literature, a number of 6000 different marks and designs used on Roman ceramics are mentioned.<sup>37</sup> In addition, the marking of goods with certain marks was aimed at pointing out not only the origin of the goods, but also of the manufacturer's personality.<sup>38</sup> Apart from this function of marking the ownership of things or the sentiment of personal pride or maybe stating the creator of the goods, that conditionally could be treated as private-legal function, there was also a certain public-legal function. This function is evident from the marking that was done by the public authorities for tax purposes

---

Intellectual Property Rights in Roman and Contemporary Law With Reference to Copyright and Trademark Law: In Bulgarian], *Ius Romanum II*.

<sup>30</sup>Greenberh, A.S. (1951). *The Ancient Lineage of Trade-Marks*. *Journal of the Patent Office Society*, 33(12), 879.

<sup>31</sup> Rogers, E.S. (1910). *Some Historical Matter concerning Trade-Marks*. *Michigan Law Review*, 9(1), 33.

<sup>32</sup> Ruston, G. (1955). On the Origin of Trademarks. *The Trademark Reporter* 45(2), 133.

<sup>33</sup> Pepeljugoski, V. (1996). *Zastita na industriskata sopstvenost: so modeli na obrasci* [Protection of Industrial Property: With Models and Sample Forms: In Macedonian]. Akademik, Skopje, p. 12.

<sup>34</sup> Verona, A. (1978). *Pravo industrijskog vlasništva*, Informator [In Croatian], Zagreb, p.11.

<sup>35</sup>Vukmir, M. (1992). *The Roots of Anglo-American Intellectual Property Law in Roman Law*. *IDEA: The Journal of Law and Technology* 32(2), 131.

<sup>36</sup>May, C. , Sell, S. K. (2006). *Intellectual Property Rights: A Critical History*, Boulder, CO: Lynne Rienner Publishers, p. 47.

<sup>37</sup> Paster, B.G. (1969). *Trademarks: Their Early History*. *The Trademark Reporter* 59(8), 554.

<sup>38</sup> Janić, M. (1973). *Industrijska svojina i autorsko pravo* [In Serbian], Službeni list SFRJ, Beograd, p.161.

or as means for marking the state monopole or as means for settling accounts between the entrepreneurs and their workers.<sup>39</sup>

Regardless of the great presence of marks and denotations in ancient Rome, in general the existence of adequate means for legal protection is questionable in case of violation or abuse of somebody else's symbols in today's sense of the word. Thus, the FORTIS<sup>40</sup> oil lamps were a very popular item for forging. Just as is the case with the protection of what is called literary property, it is probable that the existing legal institutes were expended also to the violations and abuses of somebody else's symbols, even though there are no evidence that these symbols were considered independent objects of independent subjective rights, as it is the case today with trademarks.

As an adequate means of protection, the institute *falsum* appeared, as a separate tort against the state.<sup>41</sup> Any forging of identification documents in the Roman law was considered to be "falsum". According to the Digest "falsum is something that does not exist, but it is claimed that it is truthful".<sup>42</sup> The provisions regarding falsum were given in a special law, Lex Cornelia de falsis, adopted by Sulla in 81 BC. Testimonies about the content of Lex Cornelia de falsis can be found in Justinian's Institutes (Inst. 4.18.7.).

*Item lex Cornelia de falsis, quae etiam testamentaria vocatur, poenam irrogat ei qui testamentum vel aliud instrumentum falsum scripserit, signaverit, recitaverit, subiecerit, quive signum adulterinum fecerit, sculpsit, expresserit sciens dolo malo. eiusque legis poena in servos ultimum supplicium est, quod et in lege de sicariis et veneficis servatur, in liberos vero deportatio.*

*In addition, Cornelia's act on forgeries was also known as Cornelia's act on wills. It punishes the person that writes a forged will or other documents, or seals them or declares them in front of witnesses or replaces the real ones with false ones; as well as a person who is aware of it and with ill intentions engraves or casts a copy of a mark. The penalty according to this law is the ultimate one, for slaves, according to the law on murderers and poisoners; for free men, deportation.*

---

<sup>39</sup> Ladas, S.P. (1975). Patents, Trademarks, and Related Rights: National and International Protection, Vol. I, Harvard University Press, Cambridge, p. 4.

<sup>40</sup> Drescher, T.D. (1992). The Transformation and Evolution of Trademarks: From Signals to Symbols to Myth. The Trademark Reporter 82(3), 131.

<sup>41</sup> Naumovski, G. (2011). Osnovnite instituti na rimskoto krivicno parvo [Basic Institutes of Roman Criminal Law: In Macedonian]. Zbornik vo cest na Gjorgji Marjanovic, Praven fakultet "Justinijan Prvi" Skopje, p.332.

<sup>42</sup> Paul. Coll. 8.6.1.

Apart from the provisions on forging in general, there were also regulations on forging wills (*falsum testamentum*),<sup>43</sup> and forging money and their circulation (*falsa moneta*). The other forms of forging identification documents (e.g. *rescripta* or other legal acts of the princeps) were prohibited with *senatus consulta*,<sup>44</sup> which expanded the application of the Lex Cornelia. The penalties for falsum vary from *aquae et ignis interdictio*, deportation, confiscation of property,<sup>45</sup> and for more serious violations, a death penalty.<sup>46</sup>

As one can see, the regulations in Lex Cornelia de falsis referred also to forging marks. A confirmation for this could be found in Justinian's Digest (Mod. D. 48.10.30. pr.).

*Lege cornelia testamentaria obligatur, qui signum adulterinum fecerit sculpsit.*

*The person is responsible according to lex Cornelia for the wills if a forged mark is made or engraved.*

An interesting question is what the scope of application of the regulations from *Lex Cornelia de falsis* was when it concerned names, and especially in relation to *plagium*. In this sense, the words by Papinian given in Justinian's Digest are indicative (Pap. D. 48.10.13 pr.).

*Falsi nominis vel cognominis adseveratio poena falsi coercetur.*

*Anybody declaring a false name or surname will be held accountable and thus punished for fraud.*

*Actio iniuriarum* appears as the adequate means for protection. Here we speak again about the application of the established institutes of the Roman law in situations that, in their nature, are adequate for the content of the instrument. Insult, in general, is considered sufficient basis for filing a personal lawsuit.<sup>47</sup> Hence, violation or abuse of somebody else's mark could result in violation of the honour and reputation of its "holder". So, the regulations from *Lex Cornelia de iniuriis* are important: The general application of Lex Cornelia de iniuriis, it is mentioned by Ulpian (Ulp. D. 47.10.5. pr.).

---

<sup>43</sup> The forged will was considered invalid (Paul. D. 50.16.221.: Paulus respondit falsum tutorem eum vere dici, qui tutor non est, sive habenti tutor datus est sive non: sicut falsum testamentum, quod testamentum non est, et modius iniquus, qui modius non est).

<sup>44</sup> Such an opinion by the Senate was for example *Senatusconsultum Geminianum*, *Senatusconsultum Libonianum*, *Senatusconsultum Geminianum* etc.

<sup>45</sup> Marci. D. 48.10.1.13.: *Poena falsi vel quasi falsi deportatio est et omnium bonorum publicatio: et si servus eorum quid admiserit, ultimo supplicio adfici iubetur.*

<sup>46</sup> C. 9.22.

<sup>47</sup> Ulp. D. 44.7.25.1.

*Lex cornelia de iniuriis competit ei, qui iniuriarum agere volet ob eam rem, quod se pulsatum verberatumve domumve suam vi introitam esse dicat.*

*Lex Cornelia on insults is applied for anybody who wants to file a lawsuit for insult, because he believes to have been beaten up, hit or if his house had been broken in by force.*

Having in mind this general application of the regulations from Lex Cornelia de iniuriis, confirmed also in Justinian's Institutes (Inst. 4.4.8.), Ulpian further clarifies its application in more details (Ulp. D. 47.10.5.9.).

*Si quis librum ad infamiam alicuius pertinentem scripserit composuerit ediderit dolove malo fecerit, quo quid eorum fieret, etiamsi alterius nomine ediderit vel sine nomine, uti de ea re agere liceret et, si condemnatus sit qui id fecit, intestabilis ex lege esse iubetur.*

*It has been envisaged that if anybody writes, composes or publishes something written with the intention of degrading or spreading rumours about somebody else or intentionally contributing for those things to happen, regardless whether it is done on somebody else's behalf or anonymously, a lawsuit could be filed for that, and if the culprit is convicted he will be shamed in accordance with the law.*

Schechter has researched the historical aspects of trademarks, <sup>48</sup> particularly for the period starting from middle ages up until the beginning of the 20<sup>th</sup> century. He focuses on several points regarding the historical development of trademarks with examples from England and France:

- The continuum of the definition of trademark in the jurisprudence as “a mark, sign or symbol, the primary and proper function of which is to identify origin or ownership of the goods to which is affixed;
- The implication of merchants' proprietary marks in the middle ages, manifested through their beneficence, omnipresence, hereditary character, and have had social and commercial value; even though middle age trademarks were not trademarks in modern sense, they still have contributed towards the development of modern trademark law;
- The production marks of trade guilds and companies, especially in the sixteenth and seventeenth century, particularly present in the case of devices of printers and publishers, although foremost of decorative character, have had an input in the fore coming turnouts of trademarks as a legal category;

---

<sup>48</sup> Schechter, F.I. (1999). The Historical Foundations of the Law Relating to Trade-marks. New Jersey: The Lawbook Exchange.

-Significance of clothes and cutlery marks and the so-called process of transformation of the production mark from “liability mark” into “asset mark”, followed by cases such as *Suthern vs. How* in which there is a dictum on misuse of another clothier’s trademark. <sup>49</sup>

Trademark rights as all intellectual property rights are exclusive rights allocated by the state, on temporary bases, and they refer to exploitation of intellectual creations. Any defining of intellectual property rights requires analysis of the understanding of their legal nature though out history. In general, intellectual property is part of the exclusive time-limited rights established by the state regarding the use of creations of intellectual labour. The definition of the intellectual property rights poses questions regarding their legal nature and the historical development of these rights. However, the history of ownership of literary and artistic works as well as of industrial property is long, but not as long as the classical ownership that we come across in the Roman law i.e. in the works of the Roman jurists.

In any case, it is necessary to underline that in the laws of antiquity and in mediaeval law there were no trademarks in the contemporary meaning of the word. Still, there are institutes and rules with features, that viewed from today’s perspective, indicate at least the need of legal regulation of this issue.

### 1.1.2. Taxonomies of Trademarks

From taxonomic point of view on trademarks, at least three approaches are significant: a) the Kuwayama’s four classes taxonomy; b) Weckerle’s categorization; and c) Molerrup’s taxonomy.

According to Kuwayama, <sup>50</sup> trademarks belong to one of the four taxonomic classes: 1) alphabet; 2) concrete forms; 3) abstract forms and 4) symbols and numbers.

Weckerle has provided a 9x9 taxonomic matrix is composed of: verbal symbol (Logotype, Abbreviation, Initial); Icon (product-oriented, metaphoric); mark (figurative, coloured); and emblem (private, public).<sup>51</sup> Spencer, has provided a more simplified version of Weckerle’s taxonomy, transforming it into 5x5 of trademarks ’matrix,<sup>52</sup> that includes the

---

<sup>49</sup> Ibid, p.123.

<sup>50</sup> Kuwayama, Y. (1988). *Trademarks and Symbols of the World, The Alphabet in Design*. Rockport: Rockport Publishers.

<sup>51</sup> Weckerle, H. (1968). *Typographer as Analyst*. *Design Magazine*, no.42.

<sup>52</sup> Spencer, K.L. (2011). *Evaluating Trademark Design*. San Jose State University SJSU Scholar Works, Available at: [http://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=4952&context=etd\\_theses](http://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=4952&context=etd_theses).

following groups: typographic (logo-type & abbreviation) and graphic (name-oriented, product-oriented and value oriented).<sup>53</sup>

However, it seems that the most appropriate so far is the Mollerup taxonomy, i.e. his so called Taxonomic tree of trademarks, designed based on two semiotic categories, corresponding to eight principles of division, resulting with twenty trademark classes.<sup>54</sup> This taxonomy is graphically presented at Table A and Chart 1.

Semiotic Category	Principle of Division	Taxonomic Class
Material Qualities	Dimensions	Graphic marks
		Non-graphic marks
	Graphic form	Picture marks
		Letter marks
	Picture form	Figurative marks
		Non-figurative marks
	Letter combination form	Name marks
		Abbreviations
	Abbreviation form	Initial abbreviations
		Non-initial abbreviations
	Initial Abbreviation form	Acronyms
		Non-acronym initial abbreviations
Referential Quality	Visual reference	Descriptive marks
		Metaphoric marks
		Found marks
	Linguistic reference	Proper names
		Descriptive names
		Metaphoric names
		Found names
		Artificial names

*Table A:  
Mollerup's Semiotic Categories, Principles of Division & Taxonomic Classes*

<sup>53</sup> Ibid.

<sup>54</sup> Mollerup, P. (2013). Marks of Excellence. London: Phaidon, p. 101.



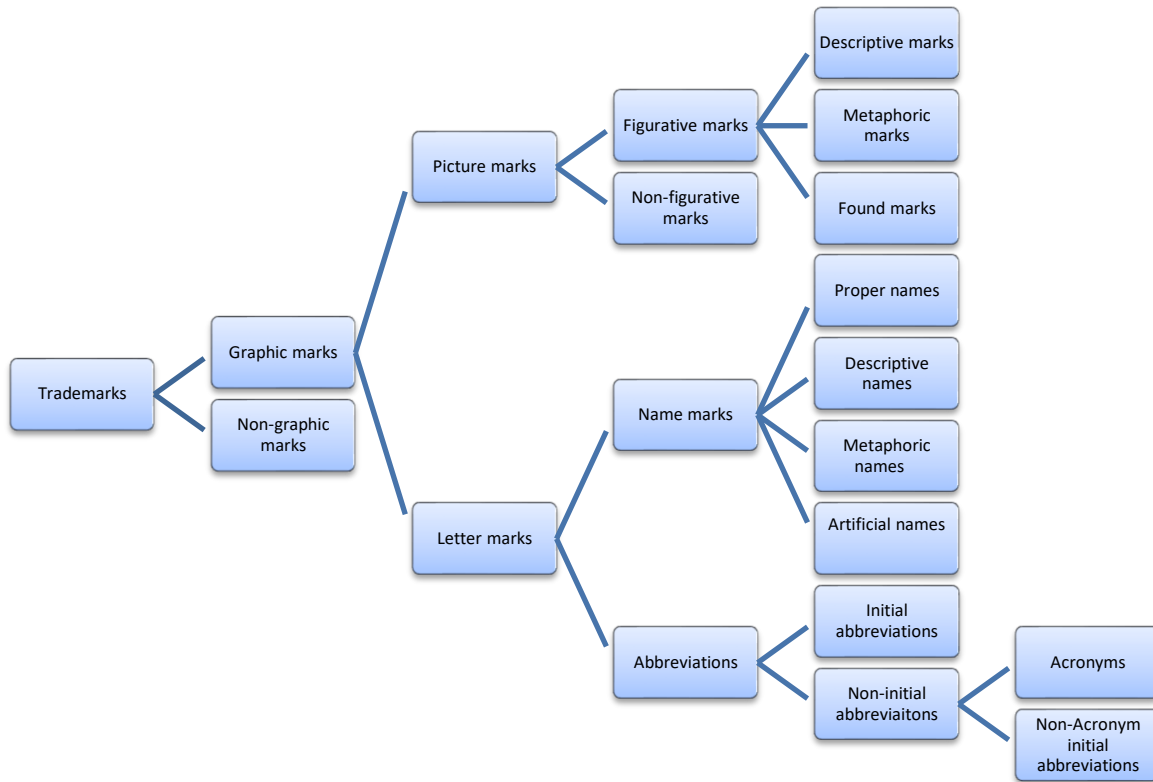


Chart 1 :

*Taxonomy of Trademarks by Per Mollerup*

Consequently, having in mind the efforts through history, as well as the contemporary taxonomical aspects, it seems that the legal response to marks in their development have trailed human and social evolution, making trademarks an interconnected feature of *homo faber*,<sup>55</sup> *homo oeconomicus*<sup>56</sup> and *homo pictor*.<sup>57</sup> (underlined by G. Naumovski).

<sup>55</sup> “Man the Maker”, a concept of the philosophical anthropology referencing to the “working-man” (See: M. Scheler (1928). *Die Stellung des Menschen im Kosmos*. CreateSpace Independent Publishing Platform; H. Bergson (1907). *L’Évolution créatrice* (1907), Éd. PUF, coll. « Quadrige », 2007 (édition critique), chap. II, pp. 138-140.

<sup>56</sup> Although the roots of the concept of the “economic man” can be traced in Aristotle’s *Politics*, its model is elaborated by John Stuart Mill and it’s one of the key concept of economic theory, while the term itself according to Persky is mentioned by Pareto (Persky, J. (1995). *Retrospectives: The Ethology of Homo Economicus*. *The Journal of Economic Perspectives*, 9(2). The essence of the concept includes the idea of maximization of utility (in consumers) and maximization of profit (in producers), which is relevant for the trademark theory.

<sup>57</sup> Man the artist, the depicting man, a theory in aesthetical anthropology developed by H. Jonas in the sixties, encompassing image-making and the freedom of man .For contemporary views on *homo faber*, see: F. Fossa (2015). *Image-making and the Freedom of Man*. *Vision, Image and Symbol Homo Pictor and Animal Symbolicum in Hans Jonas' Anthropology*. *Aisthesis*, 8(2), p. 165 -182.

### 1.1.3. Classical Trademark Approach and International Legal Sources

#### 1.1.3.1. Traditional Definition

According to the traditional approach of definition, the trademark (a registered goods or service mark) is a sign in commerce, envisioned for providing a distinction of goods or services of the same or analogous kind, though its protection is in accordance with the law.<sup>58</sup>

<sup>59</sup> In this sense, the trademark is a distinctive sign that can be attached to the products or services aimed at indicating their industrial or commercial origin to the public.<sup>60</sup>

As presented above, since ancient times, the mark is the most significant distinctive sign. However, the cradle of the contemporary regulation regarding the mark is in France, particularly with the initial law that is completely devoted to the mark – the Manufacture and Goods Mark Act from 1857. Later, similar examples followed in Germany (Prussian ordinance in 1874; “Reichsgesetz in 1874”).<sup>61</sup> The modern mark as one of the industrial property law pillars, has a remarkable place in contemporary law, mostly as a consequence of the expansion of industry and trade.

During the twentieth century and nowadays as well, advertising has an immense part in conveying the marks nearer to the consumers, for instance over the media and specifically on the packaging or in advertising material. Nevertheless, the expansion of the world-wide market, convoyed by the alteration of trading means of doing business, as well as the marketing where the marks have remarkably important character, also strengthens the legal and commercial sense of the trademark in a European and global context.

The concept of trademark has several meanings. Firstly, the trademark represents a sign which is used for marking goods and services. Secondly, the trademark is used for indicating a legal institute regulated by the legal norms of a certain legal order. Thirdly, the trademark enhances the subjective right originating from the legal relationship that has occurred with the use of the trademark in the commodity and monetary exchange. From legal position, marks

---

<sup>58</sup> Bukljaš, I. (1965). Pravo industrijskog vlasništva [Industrial Property Law. In Croatian]. Zagreb. Progres.

<sup>59</sup> Verona, A. (1978). Pravo industrijskog vlasništva [Industrial Property Law. In Croatian]. Zagreb. Informator.

<sup>60</sup> Schmidt-Szalewski, J. (2007). Droit de la propriété industrielle, Paris, Lexis Nexis, Litec, p. 193.

<sup>61</sup> World Intellectual Property Organization (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer, p. 50.

are one of the most sensitive rights to industrial property. In practice they are the most problematic ones and a significant number of court cases are initiated because of trademarks.

Consequently, the relationship between the consumer and the trademark remains a central category in the theoretical considerations of trademark. According to the approach developed by the World Intellectual Property Organisation:

*“By enabling consumers to make their choice between the various goods available on the market, trademarks encourage the owners to maintain and improve the quality of the products sold under the trademark, in order to meet consumer expectations. In a market that offers a choice, a consumer who is disappointed will not buy the same product again. One who is satisfied will tend to rely on the trademark for his future purchase decisions. Thus, trademarks reward the manufacturer who constantly produces high-quality goods, and as a result they stimulate economic progress.”<sup>62</sup>*

It seems that in this context, the definition provided in the TRIPS agreement encompasses the majority of current theoretical doctrines:

*“Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible.”<sup>63</sup>*

---

<sup>62</sup> World Intellectual Property Organization (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer, p. 200.

<sup>63</sup> The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) , Article 15.

### 1.1.3.2. Types of Trademarks According to the Holder

The elementary academic constructions of the classification of trademarks, which has the trademark holder as a principle, is equivalent to the classification of certain legal institutes in the cases when there is a “pluralism of the subjects”.<sup>64</sup> Such is the case with the ownership and the collective ownership in the real law or the complexity obligations (with plurality of parties) in law of obligations.

The individual mark signifies a mark *stricto sensu*, and it involves the “classical case” of a mark whose holder is a legal entity. Henceforth, the collective and certification mark are specific forms of the mark, i.e. marks for which the basic rules for individual mark apply, with certain specificities.<sup>65</sup>

The approach of the World Intellectual Property Organization (WIPO), enhances that:

*“ A collective mark may be owned by an association which itself does not use the collective mark but whose members may use the collective mark; typically, the association has been founded in order to ensure the compliance with certain quality standards by its members; the members may use the collective mark if they comply with the requirements fixed in the regulations concerning the use of the collective mark. Thus, the function of the collective mark is to inform the public about certain particular features of the product for which the collective mark is used. An enterprise entitled to use the collective mark may in addition use its own trademark. ”*<sup>66</sup>

In fact, collective marks have a particular importance, since

*“Under the intellectual property law of most countries, there are provisions on the protection of collective marks. Collective marks are usually defined as signs which distinguish the geographical origin, material, mode of manufacture or other common characteristics of goods or services of different enterprises using the collective mark. The owner may be either an association of which those enterprises are members or any other entity, including a public institution or a cooperative.*

---

<sup>64</sup> In this regard, besides collective and certification mark, of particular interest in wider intellectual property context, to the extent of the issue of plurality of right holders, one can also analyse co-inventing in industrial property law, as well as co-authorship and collective attainment of in the area of copyright and related rights.

<sup>65</sup> Polenak Akimovska, M.; Naumovski, G. (2010). Individual, Collective and Certification Trademark. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 9-12), Introduction to Trademarks and Geographical Indications, Skopje, Iustinianus Primus Law Faculty.

<sup>66</sup> World Intellectual Property Organization (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer, p. 201.

*The owner of the collective mark is responsible for ensuring the compliance with certain standards (usually fixed in the regulations concerning the use of the collective mark) by its members. Thus, the function of the collective mark is to inform the public about certain particular features of the product for which the collective mark is used. Most countries require that an application for a collective mark be accompanied by a copy of the regulations which govern the use of the collective mark.”<sup>67</sup>*

Despite the individual mark which protects the rights of one person, the collective mark protects the rights of more (mostly legal) persons, who have regulated the right with the general act for the collective mark. Furthermore, the members of the entity, such as the association are obligated to use the collective mark only for designating goods or services which correspond to specified technical and other characteristics. Concerning the registration procedure, in most legislations, the application for the collective mark has to be accompanied by a copy of the rules determining the use of the collective mark. <sup>68</sup>

There is also a different classification of the collective marks in theory, depending on the purpose for which the collectivity members use the mark. According to this criterion, collective marks may be:

- marks that are used by the collectivity in order to identify and differ goods or services from the members of the collectivity; and

- marks that do not identify products, but rather serve to point out to the membership of the producer in the collectivity.<sup>69</sup>

Certification marks are typically given for acquiescence with defined standards but are not confined to any membership. They may be used by anyone who can certify that the products

---

<sup>67</sup> World Intellectual Property Organization, Collective Marks , Available at:

[http://www.wipo.int/sme/en/ip\\_business/collective\\_marks/collective\\_marks.htm](http://www.wipo.int/sme/en/ip_business/collective_marks/collective_marks.htm)

<sup>68</sup> Polenak Akimovska, M.; Naumovski, G. (2010). Individual, Collective and Certification Trademark. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 9-12), Introduction to Trademarks and Geographical Indications, Skopje, Iustinianus Primus Law Faculty.

<sup>69</sup> Leeds, D. (1956). Trademarks from the Government Viewpoint, California Law Review, Vol. 44, Issue 3, p.497.

involved meet certain established standards (for example, certification marks include WOOLMARK, which certifies that the goods on which it is used are made of 100% wool).<sup>70</sup>

The main difference between collective marks and certification marks is that the former may only be used by a specific group of enterprises, for example members of an association, while certification marks may be used by anybody who complies with the standards defined by the owner of the certification mark.<sup>71</sup> The certification mark is also a collective mark, but the collective mark does not need to have a character of a certification mark, meaning that the latter is more open for access.

Other typical examples for standards guaranteed by the certification mark include: ISO (standards of the International Standardization Organization), (norms of the national standardization), CEN – European Committee for Standardization, etc.<sup>72</sup>

### **1.1.3.3. International Legal Framework**

#### **1.1.3.3.1. Paris Convention for Protection of Industrial Property (1883)<sup>73</sup>**

Contemporary trademark theory outlines the following groups of provisions in the Paris Convention for Protection of Industrial Property, pertinent to the classical concept of trademark as industrial property rights:<sup>74</sup>

-Use of trademarks, defined in Article 5C (1), (2) and (3). In this sense, the article 5 C prescribes that:

---

<sup>70</sup> The Value of Collective and Certification Marks for Small Players, WIPO Magazine, July/September 2002, p.6.

<sup>71</sup> Ibidem.

<sup>72</sup> Polenak Akimovska, M.; Naumovski, G. (2010). Individual, Collective and Certification Trademark. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 9-12), Introduction to Trademarks and Geographical Indications, Skopje, Iustinianus Primus Law Faculty

<sup>73</sup> Revisions: Brussels on December 14, 1900, Washington on June 2, 1911, The Hague on November 6, 1925, London on June 2, 1934, Lisbon on October 31, 1958, and Stockholm on July 14, 1967. Amendments September 28, 1979.

<sup>74</sup> World Intellectual Property Organization (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer, p. 377-387.

*"1) If, in any country, use of the registered mark is compulsory, the registration may be cancelled only after a reasonable period, and then only if the person concerned does not justify his inaction.*

*(2) Use of a trademark by the proprietor in a form differing in elements which do not alter the distinctive character of the mark in the form in which it was registered in one of the countries of the Union shall not entail invalidation of the registration and shall not diminish the protection granted to the mark."*

-Concurrent use of the same trademark by different enterprises, also prescribed in article 5C (3):

*"(3) Concurrent use of the same mark on identical or similar goods by industrial or commercial establishments considered as co-proprietors of the mark according to the provisions of the domestic law of the country where protection is claimed shall not prevent registration or diminish in any way the protection granted to the said mark in any country of the Union, provided that such use does not result in misleading the public and is not contrary to the public interest."*

-Grace period for the payment of renewal fees, "intended to diminish the risk of a mark being lost by an involuntary delay in payment of the renewal fees", <sup>75</sup>regulated by Article 5bis:

*"1) A period of grace of not less than six months shall be allowed for the payment of the fees prescribed for the maintenance of industrial property rights, subject, if the domestic legislation so provides, to the payment of a surcharge.*

*(2) The countries of the Union shall have the right to provide for the restoration of patents which have lapsed by reason of non-payment of fees."*

-Independence of trademarks, as promulgated in Article 6:

---

<sup>75</sup> Ibid., p. 379

*“(1) The conditions for the filing and registration of trademarks shall be determined in each country of the Union by its domestic legislation.*

*(2) However, an application for the registration of a mark filed by a national of a country of the Union in any country of the Union may not be refused, nor may a registration be invalidated, on the ground that filing, registration, or renewal, has not been effected in the country of origin.*

*(3) A mark duly registered in a country of the Union shall be regarded as independent of marks registered in the other countries of the Union, including the country of origin.”*

-Well-known trademarks, whose protection “results not from its registration, which prevents the registration use of a conflicting trademark, but from the mere fact of its reputation”, <sup>76</sup>defined in Article 6 bis:

*“(1) The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark considered by the competent authority of the country of registration or use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods. These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well-known mark or an imitation liable to create confusion therewith.*

*(2) A period of at least five years from the date of registration shall be allowed for requesting the cancellation of such a mark. The countries of the Union may provide for a period within which the prohibition of use must be requested.*

*(3) No time limit shall be fixed for requesting the cancellation or the prohibition of the use of marks registered or used in bad faith.”*

- Prohibitions concerning State Emblems, Official Hallmarks, and Emblems of Intergovernmental Organizations, (provided in Article 6ter), having an aim “not to create industrial property right in favor of the State or the IGO in respect of the distinctive sign concerned, but simply to prevent the use of those signs as trademarks in industrial or commercial activities”<sup>77</sup>:

---

<sup>76</sup> Ibid, p. 380.

<sup>77</sup>Ibid, p.382.



*“(1) (a) The countries of the Union agree to refuse or to invalidate the registration, and to prohibit by appropriate measures the use, without authorization by the competent authorities, either as trademarks or as elements of trademarks, of armorial bearings, flags, and other State emblems, of the countries of the Union, official signs and hallmarks indicating control and warranty adopted by them, and any imitation from a heraldic point of view.*

*(b) The provisions of subparagraph (a), above, shall apply equally to armorial bearings, flags, other emblems, abbreviations, and names, of international intergovernmental organizations of which one or more countries of the Union are members, with the exception of armorial bearings, flags, other emblems, abbreviations, and names, that are already the subject of international agreements in force, intended to ensure their protection.*

*(c) No country of the Union shall be required to apply the provisions of subparagraph (b), above, to the prejudice of the owners of rights acquired in good faith before the entry into force, in that country, of this Convention. “.*

-Assignment of trademarks explained by the rule in Article 6quater (provided for circumstances where a trademark is used by enterprise in numerous countries and there is an intent to transfer the trademark right in one or more of those countries)<sup>78</sup>:

*(1) When, in accordance with the law of a country of the Union, the assignment of a mark is valid only if it takes place at the same time as the transfer of the business or goodwill to which the mark belongs, it shall suffice for the recognition of such validity that the portion of the business or goodwill located in that country be transferred to the assignee, together with the exclusive right to manufacture in the said country, or to sell therein, the goods bearing the mark assigned.*

*(2) The foregoing provision does not impose upon the countries of the Union any obligation to regard as valid the assignment of any mark the use of which by the assignee would, in fact, be of such a nature as to mislead the public, particularly as regards the origin, nature, or essential qualities, of the goods to which the mark is applied.*

- Protection of Marks Registered in One Country of the Union in the Other Countries of the Union, as a special rule, i.e. an exceptional situation, justified by two arguments: firstly,

---

<sup>78</sup> Ibidem.

trademark owners and the public have an interest to have the same trademark for same products in different countries; and secondly, differences in national legislations could prevent uniform use of same trademarks.<sup>79</sup> (Article 6quinquies):

*"...A.(1) Every trademark duly registered in the country of origin shall be accepted for filing and protected as is in the other countries of the Union, subject to the reservations indicated in this Article. Such countries may, before proceeding to final registration, require the production of a certificate of registration in the country of origin, issued by the competent authority. No authentication shall be required for this certificate.*

*(2) Shall be considered the country of origin the country of the Union where the applicant has a real and effective industrial or commercial establishment, or, if he has no such establishment within the Union, the country of the Union where he has his domicile, or, if he has no domicile within the Union but is a national of a country of the Union, the country of which he is a national.*

*B. Trademarks covered by this Article may be neither denied registration nor invalidated except in the following cases:*

*(i) when they are of such a nature as to infringe rights acquired by third parties in the country where protection is claimed;*

*(ii) when they are devoid of any distinctive character, or consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, place of origin, of the goods, or the time of production, or have become customary in the current language or in the bona fide and established practices of the trade of the country where protection is claimed;*

*(iii) when they are contrary to morality or public order and, in particular, of such a nature as to deceive the public. It is understood that a mark may not be considered contrary to public order for the sole reason that it does not conform to a provision of the legislation on marks, except if such provision itself relates to public order.*

*This provision is subject, however, to the application of Article 10bis...."*

- Service Marks provision, that foresee the opportunity for member states to protect service marks, without an obligation to provide registration for such marks<sup>80</sup> (Article 6sexies):

---

<sup>79</sup> Ibid, p.383.

<sup>80</sup> With the adoption of TRIPS (article 15.1), from the aspect of international legal framework, service marks are practically assimilated to trademarks (Ibid, p.385).

*“The countries of the Union undertake to protect service marks. They shall not be required to provide for the registration of such marks.”*

- Registration in the Name of the Agent or Representative of the Proprietor Without the Latter’s Authorization; applicable for those cases where the” agent or representative of the person who is the owner of a trademark applies for or obtains registration of a trademark in his own name or uses the trademark without the owners authorization”; hence, the provisions regulate the right of the trademark owner to “oppose the registration or to demand cancellation of the registration, or of the national law allows, to demand an assignment of the registration in his favor” <sup>81</sup>(Article 6septies),:

*“...(1) If the agent or representative of the person who is the proprietor of a mark in one of the countries of the Union applies, without such proprietor’s authorization, for the registration of the mark in his own name, in one or more countries of the Union, the proprietor shall be entitled to oppose the registration applied for or demand its cancellation or, if the law of the country so allows, the assignment in his favor of the said registration, unless such agent or representative justifies his action...”*

-Nature of the Goods to which the Mark is Applied (Article 7):

*“The nature of the goods to which a trademark is to be applied shall in no case form an obstacle to the registration of the mark.”*

-Collective Marks (Article 7bis), that includes two significant notions: first, requirement for the countries of the Union to accept for filing an dot protect collective marks belonging to associations the existence of which is not contrary to the law of the country of origin “even if such association do not possess and industrial or commercial establishment”; and second, each country decides on the conditions for approval or refusal of protection of the collective mark (if it is contrary to the public interest):<sup>82</sup>

*“(1) The countries of the Union undertake to accept for filing and to protect collective marks belonging to associations the existence of which is not contrary to the law of the*

---

<sup>81</sup> Ibidem.

<sup>82</sup> Belson, J. (2017). Certification and Collective Marks, Law and Practice. Edward Elgar: Cheltenham-Northampton, p.40.

*country of origin, even if such associations do not possess an industrial or commercial establishment.*

*(2) Each country shall be the judge of the particular conditions under which a collective mark shall be protected and may refuse protection if the mark is contrary to the public interest.*

*(3) Nevertheless, the protection of these marks shall not be refused to any association the existence of which is not contrary to the law of the country of origin, on the ground that such association is not established in the country where protection is sought or is not constituted according to the law of the latter country.”*

-Temporary Protection at Certain International Exhibitions (Article 11):

*“(1) The countries of the Union shall, in conformity with their domestic legislation, grant temporary protection to patentable inventions, utility models, industrial designs, and trademarks, in respect of goods exhibited at official or officially recognized international exhibitions held in the territory of any of them.*

*(2) Such temporary protection shall not extend the periods provided by Article 4. If, later, the right of priority is invoked, the authorities of any country may provide that the period shall start from the date of introduction of the goods into the exhibition.*

*(3) Each country may require, as proof of the identity of the article exhibited and of the date of its introduction, such documentary evidence as it considers necessary”.*

### **1.1.3.3.2. The Madrid Agreement Concerning the International Registration of Marks (1891)<sup>83</sup> and the Protocol Relating to the Madrid Agreement (1989)<sup>84</sup>**

The adoption of the Madrid Agreement in 1891, with several revisions up until 1967, and the adoption of the protocol related to the agreement in 1989, characterize the evolution of

---

<sup>83</sup> Revisions: Brussels on December 14, 1900, Washington on June 2, 1911, The Hague on November 6, 1925, London on June 2, 1934,

Nice on June 15, 1957, and Stockholm on July 14, 1967. Amended on September 28, 1979.

<sup>84</sup> Amendments: October 3, 2006 on November 12, 2007.

the system for international registration of trademarks (known as the Madrid system). Although the Madrid Agreement and the Protocol are formally independent treaties, they have overlapping membership; the contracting parties of both treaties together create the so-called Madrid union,<sup>85</sup> as of April 2018, 101 members, covering 117 countries which represent more than 80% of world trade.<sup>86</sup>

According to the WIPO, the advantages of the system include:<sup>87</sup>

-Subsequently to trademark registration, or application registration filing, there is filing of only one application at the Office of origin (in one language and one fee); there is no need to submit several various applications to the different trademark offices of the state parties to the agreement (in different languages and with payment of separate fees to each different office);

-There is no necessity for waiting for an approval for trademark registration by each office. Hence, if there is no refusal the holder does not have to wait for the Office of each Contracting Party in which protection is sought to take a positive decision to register the mark; if no notification on a refusal by an office within a certain deadline, the mark is protected in the contracting party;

-In certain situations, even before the deadline, the holder might obtain a declaration of approval of protection from the contracting party office. In these situations, the holder is informed about the positive answer earlier;

-By a sole and simple single simple procedural step and the payment of a single fee any changes after registration (name, address and other data), or changes regarding ownership or a restriction of the list of goods and services may be recorded with outcome for several chosen Contracting Parties.

- The international registration is also to the benefit of the contracting parties' offices, since there is no necessity for them to examine the compliance with formal necessities, or classify the goods or services, or publish the marks.

- Contracting parties' offices are remunerated for the work that they accomplish, because the individual fees collected by the international bureau are transferred to the contracting parties; there is also a distribution of the complementary and supplementary fees.

---

<sup>85</sup> World Intellectual Property Organization (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer, p. 425-426.

<sup>86</sup> <http://www.wipo.int/madrid/en/members/>

<sup>87</sup> WIPO (2016). The Madrid System for the International Registration of Marks: Objectives, Main Features, Advantages, p. 11. Available at: [http://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_418\\_2016.pdf](http://www.wipo.int/edocs/pubdocs/en/wipo_pub_418_2016.pdf)

### 1.1.3.3.3. The Trademark Law Treaty (1994)

The main intention of the Trademark Law Treaty was “to simplify and harmonize the administrative procedure in respect of national application and protection of marks”.<sup>88</sup> Following types of marks are not regulated by the treaty: collective marks, certification marks and guarantee marks (due to the obstacles in harmonization of national legislations emerging from the diverse conditions for registration of those mark), as well as holograms, sound marks, olfactory marks (due to the difficulty of their reproduction by graphic means).<sup>89</sup>

Following provisions of this international legal instrument are considered of particular importance:

-Applications for registration of a trademark, i.e. information necessary for and Office (Article 3 (1) (a)):

*“Any Contracting Party may require that an application contain some or all of the following indications or elements:*

*(i) a request for registration;*

*(ii) the name and address of the applicant;*

*(iii) the name of a State of which the applicant is a national if he is the national of any State, the name of a State in which the applicant has his domicile, if any, and the name of a State in which the applicant has a real and effective industrial or commercial establishment, if any;*

*(iv) where the applicant is a legal entity, the legal nature of that legal entity and the State, and, where applicable, the territorial unit within that State, under the law of which the said legal entity has been organized;*

*(v) where the applicant has a representative, the name and address of that representative;*

*(vi) where an address for service is required under Article 4(2)(b), such address;*

*(vii) where the applicant wishes to take advantage of the priority of an earlier application, a declaration claiming the priority of that earlier application, together*

---

<sup>88</sup> World Intellectual Property Organization (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer, p.447.

<sup>89</sup> Ibidem.

*with indications and evidence in support of the declaration of priority that may be required pursuant to Article 4 of the Paris Convention;*

*(viii) where the applicant wishes to take advantage of any protection resulting from the display of goods and/or services in an exhibition, a declaration to that effect, together with indications in support of that declaration, as required by the law of the Contracting Party;*

*(ix) where the Office of the Contracting Party uses characters (letters and numbers) that it considers as being standard and where the applicant wishes that the mark be registered and published in standard characters, a statement to that effect;*

*(x) where the applicant wishes to claim color as a distinctive feature of the mark, a statement to that effect as well as the name or names of the color or colors claimed and an indication, in respect of each color, of the principal parts of the mark which are in that color;*

*(xi) where the mark is a three-dimensional mark, a statement to that effect;*

*(xii) one or more reproductions of the mark;*

*(xiii) a transliteration of the mark or of certain parts of the mark;*

*(xiv) a translation of the mark or of certain parts of the mark;*

*(xv) the names of the goods and/or services for which the registration is sought, grouped according to the classes of the Nice Classification, each group preceded by the number of the class of that Classification to which that group of goods or services belongs and presented in the order of the classes of the said Classification;*

*(xvi) a signature by the person specified in paragraph (4);*

*(xvii) a declaration of intention to use the mark, as required by the law of the Contracting Party.”*

-Representation; Address for Service, regulating the representation and the power of attorney (Article 4):

*(1) [ Representatives Admitted to Practice] Any Contracting Party may require that any person appointed as representative for the purposes of any procedure before the Office be a representative admitted to practice before the Office.*

*(2) [ Mandatory Representation; Address for Service]*

*(a) Any Contracting Party may require that, for the purposes of any procedure before the Office, any person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory be represented by a representative.*

*(b) Any Contracting Party may, to the extent that it does not require representation in accordance with subparagraph (a), require that, for the purposes of any procedure before the Office, any person who has neither a domicile nor a real and effective industrial or commercial establishment on its territory have an address for service on that territory.*

-Duration and Renewal of Registration, provisions providing ten years of initial period of registration with an option for ten years renewal period (Article 13)

*"... (7) [ Duration ] The duration of the initial period of the registration, and the duration of each renewal period, shall be 10 years."*

Among the other provisions of importance for the universalization of trademark registration of wider sense, are the regulations on the filing date (Article 5); Signature (Article 8); Changes and Corrections Concerning Applications and Registrations (Article 10 and Article 11); and Regulations and Model International Forms annexed to the treaty.

#### **1.1.3.3.4. Singapore Treaty on the Law of Trademarks (2006)**

According to the WIPO, the Singapore Treaty has an aim to establish contemporary active international framework in terms of synchronization of the administrative procedures for trademark registration, in the context of the Trademark Law Treaty, in a way that the Singapore Treaty provides a broader opportunities of application, also having in mind the new advances in the area of information and communication technology (parties of the treaty can choose the means of communication with their offices , providing for electronic forms of



as well).<sup>90</sup> Having these features, the Singapore Treaty is applicable to all types of marks registrable according to the national laws of the parties<sup>91</sup>. From the aspect of other provisions the Singapore Treaty follows the Trademark Law Treaty, although the two treaties are distinct and can be independently ratified or adhered to.<sup>92</sup>

Specifically, the provisions are structured in the following way: Abbreviated Expressions (Article 1); Marks to Which the Treaty Applies (Article 2); Application (Article 3); Representation; Address for Service (Article 4); Filing Date (Article 5); Single Registration for Goods and/or Services in Several Classes (Article 6); Division of Application and Registration (Article 7); Communications (Article 8 ); Classification of Goods and/or Services (Article 9 ); Changes in Names or Addresses (Article 10); Change in Ownership (Article 11); Correction of a Mistake (Article 12 ); Duration and Renewal of Registration (Article 13); Relief Measures in Case of Failure to Comply with Time Limits (Article 14 ); Obligation to Comply with the Paris Convention (Article 15); Service Marks (Article 16); Request for Recordal of a License (Article 17 ); Request for Amendment or Cancellation of the Recordal of a License (Article 18 ); Effects of the Non-Recordal of a License (Article 19); Indication of the License (Article 20); Observations in Case of Intended Refusal (Article 21); Regulations (Article 22); Assembly (Article 23); International Bureau (Article 24); Revision or Amendment (Article 25); Becoming Party to the Treaty (Article 26); Application of the TLT 1994 and This Treaty (Article 27); Entry into Force; Effective Date of Ratifications and Accessions (Article 28); Reservations (Article 29 ); Denunciation of the Treaty (Article 30 ); Languages of the Treaty; Signature (Article 31); Depositary (Article 32).

#### **1.1.3.3.5. The Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957)<sup>93</sup>**

The Nice Agreement introduces a classification of goods or services for the aim of trademark registration process (so called Nice classification), providing consistency in the registration, since trademark offices of the parties specify in their documentation the

---

<sup>90</sup> WIPO (2009). Summaries of Conventions, Treaties and Agreements Administered by WIPO. World Intellectual Property Organization: Geneva, p.32.

<sup>91</sup> Ibidem.

<sup>92</sup> Ibidem.

<sup>93</sup> Revision: Stockholm-1967 and Geneva-1977, Amended in 1979.

appropriate classes numbers. The 83 states parties to the Nice Agreement constitute the Nice Union,<sup>94</sup> having an Assembly that agrees upon the budget and the biennial program. Besides the Assembly, there is a Committee of Experts, having a representative from each Union member and a major to periodically revise the Classification.

The Nice classification is composed of 34 classes for goods and 11 classes for services and alphabetical list of goods and services, providing information for each class where the product or services is classified. Each class description contains explanatory note on what does/does not the class include in particular. The latest, eleventh version of the classification entered into force on January 1, 2018, being published online in English and in French:<sup>95</sup>

Following classes are constituting the current version of the classification:<sup>96</sup>

#### I. Goods:

-Class 1: Chemicals for use in industry, science and photography, as well as in agriculture, horticulture and forestry; unprocessed artificial resins, unprocessed plastics; fire extinguishing and fire prevention compositions; tempering and soldering preparations; substances for tanning animal skins and hides; adhesives for use in industry; putties and other paste fillers; compost, manures, fertilizers; biological preparations for use in industry and science.

-Class 2: Paints, varnishes, lacquers; preservatives against rust and against deterioration of wood; colorants, dyes; inks for printing, marking and engraving; raw natural resins; metals in foil and powder form for use in painting, decorating, printing and art.

-Class 3: Non-medicated cosmetics and toiletry preparations; non-medicated dentifrices; perfumery, essential oils; bleaching preparations and other substances for laundry use; cleaning, polishing, scouring and abrasive preparations.

-Class 4: Industrial oils and greases, wax; lubricants; dust absorbing, wetting and binding compositions; fuels and illuminants; candles and wicks for lighting.

---

<sup>94</sup> Status May 15, 2018. Available at:

[http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&search\\_what=B&bo\\_id=10](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&search_what=B&bo_id=10)

<sup>95</sup> Available at: <http://www.wipo.int/classifications/nice/nclpub/en/fr/>

<sup>96</sup> Ibidem.

-Class 5: Pharmaceuticals, medical and veterinary preparations; sanitary preparations for medical purposes; dietetic food and substances adapted for medical or veterinary use, food for babies; dietary supplements for humans and animals; plasters, materials for dressings; material for stopping teeth, dental wax; disinfectants; preparations for destroying vermin; fungicides, herbicides.

-Class 6: Common metals and their alloys, ores; metal materials for building and construction; transportable buildings of metal; non-electric cables and wires of common metal; small items of metal hardware; metal containers for storage or transport; safes.

-Class 7: Machines, machine tools, power-operated tools; motors and engines, except for land vehicles; machine coupling and transmission components, except for land vehicles; agricultural implements, other than hand-operated hand tools; incubators for eggs; automatic vending machines.

-Class 8: Hand tools and implements, hand-operated; cutlery; side arms, except firearms; razors.

-Class 9: Scientific, nautical, surveying, photographic, cinematographic, optical, weighing, measuring, signalling, checking (supervision), life-saving and teaching apparatus and instruments; apparatus and instruments for conducting, switching, transforming, accumulating, regulating or controlling electricity; apparatus for recording, transmission or reproduction of sound or images; magnetic data carriers, recording discs; compact discs, DVDs and other digital recording media; mechanisms for coin-operated apparatus; cash registers, calculating machines, data processing equipment, computers; computer software; fire-extinguishing apparatus.

-Class 10: Surgical, medical, dental and veterinary apparatus and instruments; artificial limbs, eyes and teeth; orthopaedic articles; suture materials; therapeutic and assistive devices adapted for the disabled; massage apparatus; apparatus, devices and articles for nursing infants; sexual activity apparatus, devices and articles.

-Class 11: Apparatus for lighting, heating, steam generating, cooking, refrigerating, drying, ventilating, water supply and sanitary purposes.

-Class 12: Vehicles; apparatus for locomotion by land, air or water.

-Class 13: Firearms; ammunition and projectiles; explosives; fireworks.

-Class 14: Precious metals and their alloys; jewelry, precious and semi-precious stones; horological and chronometric instruments.

-Class 15: Musical instruments.

-Class 16: Paper and cardboard; printed matter; bookbinding material; photographs; stationery and office requisites, except furniture; adhesives for stationery or household purposes; drawing materials and materials for artists; paintbrushes; instructional and teaching materials; plastic sheets, films and bags for wrapping and packaging; printers' type, printing blocks.

-Class 17: Unprocessed and semi-processed rubber, gutta-percha, gum, asbestos, mica and substitutes for all these materials; plastics and resins in extruded form for use in manufacture; packing, stopping and insulating materials; flexible pipes, tubes and hoses, not of metal.

-Class 18: Leather and imitations of leather; animal skins and hides; luggage and carrying bags; umbrellas and parasols; walking sticks; whips, harness and saddlery; collars, leashes and clothing for animals.

-Class 19: Building materials (non-metallic); non-metallic rigid pipes for building; asphalt, pitch and bitumen; non-metallic transportable buildings; monuments, not of metal.

-Class 20: Furniture, mirrors, picture frames; containers, not of metal, for storage or transport; unworked or semi-worked bone, horn, whalebone or mother-of-pearl; shells; meerschaum; yellow amber.

-Class 21: Household or kitchen utensils and containers; cookware and tableware, except forks, knives and spoons; combs and sponges; brushes, except paintbrushes; brush-making materials; articles for cleaning purposes; unworked or semi-worked glass, except building glass; glassware, porcelain and earthenware.

-Class 22: Ropes and string; nets; tents and tarpaulins; awnings of textile or synthetic materials; sails; sacks for the transport and storage of materials in bulk; padding, cushioning and stuffing materials, except of paper, cardboard, rubber or plastics; raw fibrous textile materials and substitutes therefor.

-Class 23: Yarns and threads, for textile use.

-Class 24: Textiles and substitutes for textiles; household linen; curtains of textile or plastic.

-Class 25: Clothing, footwear, headgear.

-Class 26: Lace and embroidery, ribbons and braid; buttons, hooks and eyes, pins and needles; artificial flowers; hair decorations; false hair.

-Class 27: Carpets, rugs, mats and matting, linoleum and other materials for covering existing floors; wall hangings (non-textile).

-Class 28: Games, toys and playthings; video game apparatus; gymnastic and sporting articles; decorations for Christmas trees.

-Class 29: Meat, fish, poultry and game; meat extracts; preserved, frozen, dried and cooked fruits and vegetables; jellies, jams, compotes; eggs; milk and milk products; oils and fats for food.

-Class 30: Coffee, tea, cocoa and artificial coffee; rice; tapioca and sago; flour and preparations made from cereals; bread, pastries and confectionery; edible ices; sugar, honey, treacle; yeast, baking-powder; salt; mustard; vinegar, sauces (condiments); spices; ice (frozen water).

-Class 31: Raw and unprocessed agricultural, aquacultural, horticultural and forestry products; raw and unprocessed grains and seeds; fresh fruits and vegetables, fresh herbs; natural plants and flowers; bulbs, seedlings and seeds for planting; live animals; foodstuffs and beverages for animals; malt.

-Class 33: Alcoholic beverages (except beers).

-Class 34: Tobacco; smokers' articles; matches.

## II. Services:

-Class 35: Advertising; business management; business administration; office functions.

-Class 36: Insurance; financial affairs; monetary affairs; real estate affairs.

-Class 37: Building construction; repair; installation services.

-Class 38: Telecommunications.

-Class 39: Transport; packaging and storage of goods; travel arrangement.

-Class 40: Treatment of materials.

-Class 41: Education; providing of training; entertainment; sporting and cultural activities.

-Class 42: Scientific and technological services and research and design relating thereto; industrial analysis and research services; design and development of computer hardware and software.

-Class 43: Services for providing food and drink; temporary accommodation.

-Class 44: Medical services; veterinary services; hygienic and beauty care for human beings or animals; agriculture, horticulture and forestry services.

-Class 45: Legal services; security services for the physical protection of tangible property and individuals; personal and social services rendered by others to meet the needs of individuals.

#### **1.1.3.3.6. The Vienna Agreement Establishing and International Classification of the Figurative Elements of Marks (1973)<sup>97</sup>**

One of the key purposes of the Classification established by this treaty is basically to simplify trademark search and decrease reclassification during international exchange of documents, since “a large number of trademarks and service marks contain such figurative elements and the Classification makes it possible to identify marks composed of elements that are alike or similar”.<sup>98</sup> Although it currently has 32 parties,<sup>99</sup> the agreement also is

---

<sup>97</sup> Amended in 1985.

<sup>98</sup> World Intellectual Property Organization (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer, p.464.

<sup>99</sup> Status of May 13, 2018. [http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty\\_id=13](http://www.wipo.int/treaties/en/ShowResults.jsp?lang=en&treaty_id=13)

advantageous in terms of saving human resources, time and means, particularly for the developing countries.<sup>100</sup>

By the agreement, a Union is established having an assembly; a committee of experts is also established by the agreement, competent for periodical revision of the classification.<sup>101</sup>

The classification contains 29 categories, 144 divisions and 1667 sections.<sup>102</sup>

The main categories of the figurative elements are:<sup>103</sup>

- *Category 1: Celestial Bodies, Natural Phenomena, Geographical Maps;*
- *Category 2: Human Beings;*
- *Category 3: Animals;*
- *Category 4: Supernatural, Fabulous, Fantastic or Unidentifiable Beings;*
- *Category 5: Plants;*
- *Category 6: Landscapes;*
- *Category 7: Constructions, Structures for Advertisements, Gates or Barriers;*
- *Category 8: Foodstuffs;*
- *Category 9: Textiles, Clothing, Sewing Accessories, Headwear, Footwear;*
- *Category 10: Tobacco, Smokers' Requisites, Matches, Travel Goods, Fans, Toilet Articles;*
- *Category 11: Household Utensils;*
- *Category 12: Furniture, Sanitary Installations;*
- *Category 13: Lighting, Wireless Valves, Heating, Cooking or Refrigerating; Equipment, Washing Machines, Drying Equipment;*
- *Category 14: Ironmongery, Tools, Ladders;*
- *Category 15: Machinery, Motors, Engines;*
- *Category 16: Telecommunications, Sound Recording or Reproduction, Computers, Photography, Cinematography, Optics;*
- *Category 17: Horological Instruments, Jewelry, Weights and Measures;*
- *Category 18: Transport, Equipment for Animals;*
- *Category 19: Containers and Packing, Representations of Miscellaneous Products;*
- *Category 20: Writing, Drawing or Painting Materials, Office Requisites, Stationery and Booksellers' Goods;*
- *Category 21: Games, Toys, Sporting Articles, Roundabouts;*
- *Category 22: Musical Instruments and Their Accessories, Music Accessories, Bells, Pictures, Sculptures;*

---

<sup>100</sup> World Intellectual Property Organization (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer, p.466.

<sup>101</sup> Article 5 & Article 7, Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks Done at Vienna on June 12, 1973 as amended on October 1, 1985 (Available at: [http://www.wipo.int/wipolex/en/treaties/text.jsp?file\\_id=294918#a5](http://www.wipo.int/wipolex/en/treaties/text.jsp?file_id=294918#a5) ).

<sup>102</sup> The latest, 8<sup>th</sup> Edition of the Classification of 22 June 2017 (entered into force on January 1<sup>st</sup>, 2018) is available at: <http://www.wipo.int/classifications/nivilo/vienna.htm>

<sup>103</sup> Ibidem.

- *Category 23: Arms, Ammunition, Armor;*
- *Category 24: Heraldry, Coins, Emblems, Symbols;*
- *Category 25: Ornamental Motifs, Surfaces or Backgrounds with Ornaments;*
- *Category 26: Geometrical Figures and Solids;*
- *Category 27: Forms of Writing, Numerals;*
- *Category 28: Inscriptions in Various Characters;*
- *Category 29: Colours.*

### **1.1.3.3.7. The Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) (1994)**

As part of the Marrakesh Agreement Establishing the World Trade Organization (Annex 1C), signed in Marrakesh, Morocco on 15 April 1994, resulted from the Uruguay Round of multilateral trade negotiations, the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), has a principle aim "*..to reduce distortions and impediments to international trade, and taking into account the need to promote effective and adequate protection of intellectual property rights, and to ensure that measures and procedures to enforce intellectual property rights do not themselves become barriers to legitimate trade*".<sup>104</sup> Some authors (Schmidt-Szalewski) have correctly noted the importance of the TRIPS in the setting of the free and well-balanced development of trade in future and the importance .<sup>105</sup>

Modern intellectual property theory has a view that the trademarks section of the TRIPS agreement has at least several novelties in a universal context, among which of crucial importance are: 1) expanded protection in terms of well-known trademarks; 2) use requirement in trademark registration maintenance; and 3) flexibility in assignment of trademark unrelated to the respective business.<sup>106</sup>

---

<sup>104</sup> Preamble to the Agreement on Trade-Related Aspects of Intellectual Property Rights, available at: [http://www.wipo.int/wipolex/en/other\\_treaties/text.jsp?file\\_id=305907#preamble](http://www.wipo.int/wipolex/en/other_treaties/text.jsp?file_id=305907#preamble)

<sup>105</sup> Schmidt-Szalewski, J. (1999). The International Protection of Trademarks After the TRIPS Agreement. *Duke Journal of Comparative and International Law*, 9, p. 189-212.

<sup>106</sup> Corea, C. (2007). *Trade Related Aspects of Intellectual Property Rights. A Commentary to the TRIPS Agreement*, New York: Oxford University Press, p. 174.



The following TRIPS provisions are with significant implications regarding availability, scope and use of trademark rights<sup>107</sup>, i.e. the following rules are of particular significance for the trademark theory:

- the definition of a trademark, as well dependence of registrability upon visual perceptibility; for signs which are not inherently distinctive, dependence of registrability on distinctiveness acquired through use (Article 15.1.):

*"Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible."*

- *The relations of use with registrability and filing (Article 15.3 & 15.4.):*

*"Members may make registrability depend on use. However, actual use of a trademark shall not be a condition for filing an application for registration. An application shall not be refused solely on the ground that intended use has not taken place before the expiry of a period of three years from the date of application."*

*The nature of the goods or services to which a trademark is to be applied shall in no case form an obstacle to registration of the trademark".*

- the nature of the goods or services to which a trademark with regards to the registration of the mark (Article 15.4);

*"The nature of the goods or services to which a trademark is to be applied shall in no case form an obstacle to registration of the trademark."*

---

<sup>107</sup> World Intellectual Property Organization (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer, p.519-520.

-obligations for publication of trademarks and the possibility for petitions to cancel the registration, and may afford an opportunity to oppose the registration (Article 15.5):

*“Members shall publish each trademark either before it is registered or promptly after it is registered and shall afford a reasonable opportunity for petitions to cancel the registration. In addition, Members may afford an opportunity for the registration of a trademark to be opposed.”*

-the rights conferred (Article 16.1):

*“The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner’s consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Members making rights available on the basis of use.”*

-the exceptions (Article 17):

*“Members may provide limited exceptions to the rights conferred by a trademark, such as fair use of descriptive terms, provided that such exceptions take account of the legitimate interests of the owner of the trademark and of third parties.”*

-the rights of well-known trademark and service mark owners (Article 16.2 and 16.3):

*“2. Article 6bis of the Paris Convention (1967) shall apply, mutatis mutandis, to services. In determining whether a trademark is well-known, Members shall take account of the knowledge of the trademark in the relevant sector of the public, including knowledge in the Member concerned which has been obtained as a result of the promotion of the trademark.*

*3. Article 6bis of the Paris Convention (1967) shall apply, mutatis mutandis, to goods or services which are not similar to those in respect of which a trademark is registered,*

*provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use.”*

-the term of protection (Article 18):

*“Initial registration, and each renewal of registration, of a trademark shall be for a term of no less than seven years. The registration of a trademark shall be renewable indefinitely.”*

-condition for maintaining a registration: (Article 19.1):

*"If use is required to maintain a registration, the registration may be cancelled only after an uninterrupted period of at least three years of non-use, unless valid reasons based on the existence of obstacles to such use are shown by the trademark owner. Circumstances arising independently of the will of the owner of the trademark which constitute an obstacle to the use of the trademark, such as import restrictions on or other government requirements for goods or services protected by the trademark, shall be recognized as valid reasons for non-use."*

-other requirements (Article 20):

*“The use of a trademark in the course of trade shall not be unjustifiably encumbered by special requirements, such as use with another trademark, use in a special form or use in a manner detrimental to its capability to distinguish the goods or services of one undertaking from those of other undertakings. This will not preclude a requirement prescribing the use of the trademark identifying the undertaking producing the goods or services along with, but without linking it to, the trademark distinguishing the specific goods or services in question of that undertaking.”*

-licensing and assignment (Article 21):

*“Members may determine conditions on the licensing and assignment of trademarks, it being understood that the compulsory licensing of trademarks shall not be permitted and that the owner of a registered trademark shall have the right to assign the trademark with or without the transfer of the business to which the trademark belongs.”*

#### **1.1.3.4. The Relationship Between Trademarks and Geographical Indications**

The geographical indications are a special type of right to industrial property. The protection of the geographical indications is done in order to mark specific products which originate from a specific geographical area, and special conditions have been foreseen for their acquisition and usage. The regulatory rules have been foreseen in both domestic and international sources. The geographical indications have not only legal meaning as a special type of right to industrial property, which differs from the other rights to industrial property, but they also have a huge economic meaning. It remains a fact that the market may be conquered with quality of the products and the perseverance of the said quality. The protection of the geographical indications has a role of pointing out to the consumer that the products marked by certain geographical indications have special characteristics and quality. This makes geographical indications a guarantee for quality, which means that they have a supplementary guarantee function. The use of the protected geographical indications for marking the products that originate from a certain area also propagate and advertise the product, point to the special attributes of the product, as a result of the natural conditions and the traditional knowledge of the producers in that area. The protection of products for which the origin represents a special guarantee for quality is done by international and domestic sources, and they are characterized by constant changes.<sup>108</sup>

In terms of historical advance of the multilateral legal approach, it is generally accepted that the oldest international source for industrial property, the Paris Convention, was the first to include the reference to geographical indications. According to WIPO:

---

<sup>108</sup> For the relationship between the trademark and domain name see: Polenak Akimovska, M.; Naumovski, G. (2010). Geographical Indications in Comparative and Macedonian Legislation. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 85-98), Introduction to Trademarks and Geographical Indications, Skopje, Iustinianus Primus Law Faculty.

*“The Paris Convention was the first international multilateral treaty to include provisions relating to indications of geographical origin. Article 1(2) of the Convention recognizes “indications of source” and appellations of origin” as subject matter for industrial property. The Paris Convention does not directly define either of these terms, although it contains language that allows one to infer the following definitions of indication of source: “an indication referring to a country, or to a place situated therein as being the country or place of origin of a product.”<sup>109</sup>*

A wider protection of the geographical indications is given in the Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods from 1891 and the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration from 1958. The TRIPS Agreement provides directions in terms of the conflict between the geographical indication and the trademark, leaving however, to the national legislations to regulate the protection of the geographical indications. Articles 22, 23 and 24 are among the most significant provisions of TRIPS.<sup>110</sup>

---

<sup>109</sup> WIPO (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer: Aalphen aan den Rijn, p. 245.

<sup>110</sup> Polenak Akimovska, M.; Naumovski, G. (2010). Geographical Indications in Comparative and Macedonian Legislation. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 87), Introduction to Trademarks and Geographical Indications, Skopje, Iustinianus Primus Law Faculty.

Some authors (Sappa) give a graphical representation of the relationship of the international sources, relevant for the geographical indications. (Chart 2)<sup>111</sup>

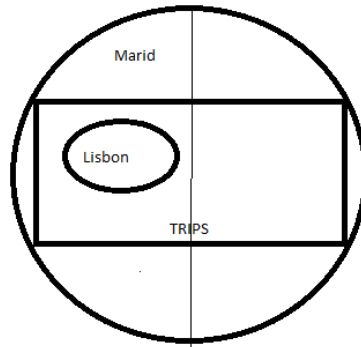


Chart 2: *International framework of geographical indications*  
(According to Cristiana Sappa)

The fact remains that there is no generally adopted terminology for the geographical indications in the comparative law of industrial property. The reason for this lies both in the specificity of the evolution of this law in national legislations<sup>112</sup> and the different terminology in the international instruments. In literature today, there is domination of the above-mentioned terms:<sup>113</sup> ‘Indication of Source’ – an indication that the product comes from a specific geographical region; ‘Appellation of Origin’ – a certification that the product originates from a certain geographical region, only when the specific product quality is due to the geographical area, including the natural and human factors; and “Geographical Indication “– which involves both concepts<sup>114</sup>.

---

<sup>111</sup> C. Sappa, *Geographical Indications: Strategic Use and Economic Value in the Wines and Spirits Sector, Strategic Use of IPRs for Economic and Social Development* Ohrid, May 21st, 2007.

<sup>112</sup> Blakeney, M. (). *Geographical Indications and TRIPS*, Occasional Paper 8, Friends World Committee for Consultation, Quaker United Nations Office – Geneva, p.4. Available at:  
<http://www.quno.org/sites/default/files/resources/Geographical-Indications.pdf>

<sup>113</sup> Conrad, A. (1996) ‘*The Protection of Geographical Indications in the TRIPS Agreement*’, *Trademark Reporter*, 86 (11), p. 13-14 .

<sup>114</sup> Blakeney, M. (). *Geographical Indications and TRIPS*, Occasional Paper 8, Friends World Committee for Consultation, Quaker United Nations Office – Geneva, p.4. Available at:  
<http://www.quno.org/sites/default/files/resources/Geographical-Indications.pdf>

Later, at the Secretariat of the World Intellectual Property Organization (WIPO) the term "indications of geographical origin" is in use, in order to encompass all the different expressions used by the members of the World Trade Organization<sup>115</sup>. In spite of the terminological differences, the opinion remains that the occurrence of the protected geographical names rest on the country where there are regions with popular products. France is pointed out as a positive example, where due to the wine and dairy production, and especially cheese, but also agricultural products in general, a special institute has been established within the Ministry of Agriculture and Fisheries, known as "National Institute for Origin and Quality" (L'Institut national de l'origine et de la qualité-INAO).<sup>116</sup>

#### **1.1.3.4.1. Geographical Indications Functions**

As a method for marking the origin of the goods and services, the indication of the product's origin and the geographical indication enable promotion of specific products with special characteristics and quality in commerce, through informing the consumer. Furthermore, they could be perceived as industrial property rights that enable linking of culture and production. The indication of the product's origin and the geographical indication represent a strong instrument for promotion of traditional products, such as food, wine, handicrafts, etc. From the aspect of the consumers' behaviour, it is believed that geographical indications have double manifestation: they represent a reflection of the consumers' interest for a particular "regional" product, but also an affiliation with the quality of the product. From macroeconomic aspect, however, geographic indications are often viewed as a tool for facilitating the development of rural areas. There are multiple experiences in this field in the agricultural and wine tourism. Apart from the economic function, geographical indications also have a cultural function, which is linked to the provision from Article 4 (4) of the UNESCO Convention on the Protection and Promotion of the Diversity of Cultural Expressions. According to the Convention, "... cultural activities, goods and services refers to those activities, goods and

---

<sup>115</sup> Note by the WTO Secretariat IP/C/W/253, dated April 2001, on "Review under Article 24.2 of the application of the provisions of the section of the TRIPS Agreement on geographical indications. Summary of the responses to the checklist of questions (IP/C/13 and Add.1)."

<sup>116</sup> <http://www.inao.gouv.fr>.

services which at the time they are considered as a specific attribute, use or purpose, embody or convey cultural expressions, irrespective of the commercial value they may have. Cultural activities may be an end in themselves, or they may contribute to the production of cultural goods and services. <sup>117</sup> There are widely known examples of geographical indications throughout the world, such as: Champagne, Cognac, Roquefort, Parmigiano, Porto, Havana, Tequila, etc. <sup>118</sup>

In recent years, the interest for this category of rights to industrial property also results in concrete steps in the field of organized approach of the producers through promotion of the protection in practice. This is the case, for example, with the organization “OriGIn”, established in 2003, which represents an umbrella organization for over 500 associations of producers from 40 countries. <sup>119 120</sup>

#### **1.1.3.4.2. EU Legislative Approach**

Under the influence of the French legislation and practice, the protection of the geographical indications in the European Union is performed on the basis of special products. In the European legislation, numerous regulations are relevant for the geographical indications.

For the agricultural products and foodstuffs, the following sources are of particular importance:

- a) *Regulation (EU) No. 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs;*<sup>121</sup>
- b) *Commission Delegated Regulation (EU) No 664/2014 supplementing Regulation (EU) No 1151/2012 of the European Parliament and of the Council with regard to*

---

<sup>117</sup> <http://unesdoc.unesco.org/images/0014/001429/142919e.pdf>.

<sup>118</sup> Polenak Akimovska, M.; Naumovski, G. (2010). Geographical Indications in Comparative and Macedonian Legislation. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 87), Introduction to Trademarks and Geographical Indications, Skopje, Iustinianus Primus Law Faculty.

<sup>119</sup> E. Olivas, Perspectives for Geographical Indications, WIPO International Symposium on GIs, Beijing, China, June 2007.

<sup>120</sup> <http://www.origin-gi.com/about-us/background.html>

<sup>121</sup> Official Journal of the European Union L 343, 14.12.2012, p. 1–29



*the establishment of the Union symbols for protected designations of origin, protected geographical indications and traditional specialities guaranteed and with regard to certain rules on sourcing, certain procedural rules and certain additional transitional rules;*<sup>122</sup>

- c) *Commission Implementing Regulation (EU) No 668/2014 laying down rules for the application of Regulation (EU) No 1151/2012 of the European Parliament and of the Council on quality schemes for agricultural products and foodstuffs.*<sup>123</sup>

With regard to wines and spirits of particular importance are:

- a) *Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks and repealing Council Regulation (EEC) No 1576/89;*<sup>124</sup>
- b) *Commission Implementing Regulation (EU) No 716/2013 laying down rules for the application of Regulation (EC) No 110/2008 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of geographical indications of spirit drinks.*<sup>125</sup>
- c) *Regulation (EU) No 1308/2013 of the European Parliament and of the Council establishing a common organisation of the markets in agricultural products and repealing Council Regulations (EEC) No 922/72, (EEC) No 234/79, (EC) No 1037/2001 and (EC) No 1234/2007;*<sup>126</sup>
- d) *Regulation (EC) No 607/2009 laying down certain detailed rules for the implementation of Council Regulation (EC) No 479/2008 as regards protected designations of origin and geographical indications, traditional terms, labelling and presentation of certain wine sector products;*<sup>127</sup>
- e) *Regulation (EU) No 251/2014 of the European Parliament and of the Council on the definition, description, presentation, labelling and the protection of*

---

<sup>122</sup> Official Journal of the European Union L 179, 19.6.2014, p. 17–22.

<sup>123</sup> Official Journal of the European Union OJ L 16, 20.1.2017, p. 1–2.

<sup>124</sup> Official Journal of the European Union L 39, 13.2.2008, p. 16–54.

<sup>125</sup> Official Journal of the European Union L 201, 26.7.2013, p. 21–30.

<sup>126</sup> L 347, 20.12.2013, p. 671–854.

<sup>127</sup> Official Journal of the European Union OJ L 193, p. 60–139..

*geographical indications of aromatised wine products and repealing Council Regulation (EEC) No 1601/91;*<sup>128</sup>

The practice of the European Court of Justice (ECJ) is also significant, especially in regard to the following cases: Prosciutto di Parma,<sup>129</sup> Gorgonzola,<sup>130</sup> Feta Cheese,<sup>131</sup> Tokaj/Tocai,<sup>132</sup> Parmigiano,<sup>133</sup> Budweiser<sup>134</sup> and others.

One of the indicators of the economical of the use of geographical indications is the study that estimates the worldwide sales value of EU GIs at € 54.3 billion in 2010, at wholesale stage.<sup>135</sup> Of these total sales wines account for 56 % (€ 30.4 billion); agricultural products and foodstuffs for 29 % (€ 15.8 billion) and spirit drinks for 15 % (€ 8.1 billion) while aromatised wines for 0.1 % (€ 31.3 million).<sup>136</sup>

#### **1.1.3.4.3. Similarities and Differences of Geographical Indications and Trademarks**

There are unquestionable resemblances between the geographical indications and the trademark, which are obvious in the field of the economic function.<sup>137</sup> The function of the trademark is to enable distinction of the product or service of one entity from the competitors' products or services. Similar to the trademark, the geographical indications also highlight certain specifics of the product, as a result of their particular regional origin. The same as trademarks, geographical indications also produce values, simply because the consumers are

---

<sup>128</sup>Official Journal of the European Union L 84, 20.3.2014, p. 14–34.

<sup>129</sup> Official Journal of the European Union J C 171, 19.07.2003, p. 6

<sup>130</sup> European Court reports 1999 Page I-01301, Case C-87/97.

<sup>131</sup> Official Journal of the European Union 2006/C, 86/01.

<sup>132</sup> Official Journal of the European Union C 182/8, 23.7.2005.

<sup>133</sup> Official Journal of the European Communities, C 191/4, 10.8.2002.

<sup>134</sup> Official Journal of the European Union, C 7/6, 10.1.2004.

<sup>135</sup> Chever, T., Renault, T., Renault, S., Romieu, V. (2012). Value of production of agricultural products and foodstuffs, wines, aromatized wines and spirits protected by a geographical indication (GI) (External Study). AND International. Available at: [https://ec.europa.eu/agriculture/sites/agriculture/files/external-studies/2012/value-gi/final-report\\_en.pdf](https://ec.europa.eu/agriculture/sites/agriculture/files/external-studies/2012/value-gi/final-report_en.pdf)

<sup>136</sup> Ibidem.

<sup>137</sup> For the main aspects of the concept of GIs and relations with trademarks see Naumovski, G. (2010). Geographical Indications in Macedonian Law. In: Research Papers from the WIPO-WTO Colloquium for Teacher of Intellectual Property Law, p. 69-77. WIPO: Geneva.

ready to pay a higher price, which derives from the association of the product with a particular geographical location.<sup>138</sup>

However, unlike trademarks, which are tied to an individual producer, geographical indications have a broader circle of carriers. Also, unlike the trademark, which is a creation of the producer, the geographical indication, as a toponymy, is self-imposed, i.e. it already exists as a category.<sup>139</sup> The difference may somewhat be relative in view of the collective and certification marks, especially since there are examples in history when geographical indications have been protected by a certification mark.<sup>140</sup>

There are fundamental differences between the collective and certification marks and the geographical indications in terms of the protection source. In contrast to the geographical indications, which are available to all producers who meet the legally prescribed conditions, the acquisition of the right to a collective or certification mark derives from the joint act of the producers, i.e. a separate act.<sup>141</sup>

Bearing in mind these moments, the table by Sylvander shows the differences and similarities between trademarks and appellations of origin or geographical indications, according to different criteria, is quite acceptable: (Table B)<sup>142</sup>

---

<sup>138</sup> Kole, P. (2007) Geographical Indications: Creating Value through Connecting Products with Geographical Origin, WIPO International Symposium on GIs, June 2007, Beijing, China.

<sup>139</sup> Naumovski, G. (2010). Geographical Indications in Macedonian Law. In: Research Papers from the WIPO-WTO Colloquium for Techer of Intellectual Property Law, p.75.

<sup>140</sup> For the issue of GIs and Certification marks, see: Varga, L. (1995). Компаративен приказ на заштитата на географските називи на производите во поедини земји и нивните искуства. [Comparative Review of Protection of Geographical Indications of Products in Certain Countries and Their Experience. In Macedonian]. Seminar of the Economic Chamber of Macedonia, March 1<sup>st</sup>, 1995. p.27-39.).

<sup>141</sup> Naumovski, G. (2010). Geographical Indications in Macedonian Law. In: Research Papers from the WIPO-WTO Colloquium for Techer of Intellectual Property Law, p.76.

<sup>142</sup> Sylvander, B. (2007). Protecting GIs: An International Comparison of Schemes and Systems, Conference «Food Quality Certification –Adding Value to Farm Products, Brussels, February 2007.

<i>Characteristics</i>	<i>Trademark</i>	<i>Appellation of origin / Geographical indication</i>
Distinctive sign	Creation: fancy/new name. TM is distinctive	Determined by the already existing geographical and human know-how
Quality	No necessary link to quality, unless search of reputation	Identifier guaranteed by the State, quality linked with origin
Ownership	Owner (individual or collective in the CTM case) Transfer is possible (in certain limits for CTM)	Public ownership Unalienable Cannot become generic
Registration	First in time, first in rights	Procedures, claims, oppositions, register
Use	Mostly private (unless collective TM and Certification TM)	Mostly collective
Conditions of use	Free, but not deceptive Rules for CTM and collective TM Closed (TM and collective TM) Open (CTM)	Comply with the conditions stated in the Codes of practices
Duration of use	Limited in time (10 to 20 years) Must be renewed	Permanent
Protection	Private Passing off (the plaintiff has the proof burden)	Public Ex officio protection

*Table B: Differences between trademarks and appellation of origin or geographical indications (Source: Sylvander)*

Potential controversies between the trademark and geographical indications arise from the cases of collision between the registered trademarks similar to the geographical indications, which would lead to delusion of the consumers, especially when the trademark is registered before the protection of the geographical indication. There are some considerations in the EU

about granting a right to the trademark holder to prevent its use as a geographical indication, in cases when that would lead to delusion of the consumer.<sup>143</sup>

### 1.1.3.5. The Relationship Between Trademarks and Domain Names

Having the aim to provide to consumers distinction of the goods and services (particularly regarding quality and value), trademarks might also appear as an vital element of internet domain names. For instance, Coca-Cola® as a well-known trademark is an integral part of the coca-cola.com internet domain. However, as a phenomenon, the domain differs from the trademark by numerous features.

a) The domain is present in the virtual space and territoriality does not apply as in the trademark:

b) The domain is unique and there cannot be coexistence, as is the case with the trademarks of different categories of goods and services.

Due to the nature of the domain name and the IP address is unique, two or more business entities may have the same mark but cannot have the same domain name. Hence, the domain is exceptional and can't be repeated. It is obvious why a trademark is very valuable and significant as a domain name. With its registration, the trademark loses the characteristics of territoriality and specialty. The trademark transformed into a domain is present on a global level, becoming a cybernetic monopoly right, with its particular faces.<sup>144</sup>

For the reason that registered domains are accomplished on the basis of the priority principle,<sup>145</sup> i.e. by approval of the first submitted request, in the beginning, there were

---

<sup>143</sup>Blakeney, M. (2006). Controversial Aspects of GIs, Queen Mary Intellectual Property Research Institute. Available at: <http://slideplayer.com/slide/10758330/>

<sup>144</sup> For the relationship between the trademark and domain name see: Polenak Akimovska, M.; Naumovski, G. (2010). The Relationship between Trademarks and Domain Names. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 55-65), Introduction to Trademarks and Geographical Indications, Skopje, Iustinianus Primus Law Faculty.

<sup>145</sup> The formula "first come, first served" is the basis of the registration principle or the awarding of a domain name, and represents a "legal transplant" of principle "*qui prior est tempore, potior est jure*" (this is the theory of legal transplants, supported by Alan Watson, who believes that law is not developed as a result of evolution, but

numerous situations of registered domains that had nothing to do with the real producers or service providers to which the domain name indicated. For example, domains like McDonald's, Hertz, Rolex and others were given to entities that were quite different from the apposite companies<sup>146</sup>.<sup>147</sup> After some time, the individuals that succeeded in acquiring these domains required enormous sums of money as reimbursement for renouncing the domain to the enterprises that were proprietors of trademarks adequate to the registered domain name. This phenomenon of **malevolent, deliberate registration of domains that resemble trademarks or names of entities in order to make profit is called “domain hijacking” or “cybersquatting”**. The subject undertaking domain hijacking activities is known as “cybersquatter”. This subject acts in *mala fides*, contrary to the principles of consciousness and honesty, “occupying” an attractive domain, with the intention of later offering it to the carrier of the eponymous trademark and make profit.<sup>148</sup>

A typical academic case sample is the court order in the USA in the cases between Dennis Toeppen and Panavision International and Intermatic. Namely, Toeppen had registered a large number of domains that were the same as or similar to famous marks, among which the marks of Panavision® и Air Canada®, as apposite domains: panavision.com and aircanada.com. Panavision® brought an action and the court applied the US traditional trademark right (under the US Federal Trademark Dilution Act). The court established existence of commercial use, because Toeppen had registered a large number of someone else's trademarks as domain names. The court ruled similarly in the Intermatic v Toeppen case, where the court found dilution of the Intermatic trademark and registration of a domain name by a person who does not have the right to the trademark.<sup>149</sup>

Separately from the domain registration of appropriate trademarks in their authentic form, it is possible for the registered domain to be a corrupt, diluted, or distorted form of a trademark or name. As an example, we could use the .nikke.com<sup>150</sup> domain, which is an on-

---

through borrowing or transplanting legal institutions from previous legislations into the contemporary legislation (see more in: Вотсон, А. (2000). *Правни трансплантати, Приступ упоредном праву.* [Legal Transplants, Comparative Law Approach. In Serbian]. Београд.

<sup>146</sup> I. J. Lloyd, Information Technology Law, Oxford, 2004.

<sup>147</sup> Наумовски, Г. (2013). Право и информатичка технологија [Information Technology Law. In Macedonian]. Правен факултет „Јустинијан Први“ Скопје, p. 107-117.

<sup>148</sup> Ibid.

<sup>149</sup> For more information, please see: M. Killian (2000), Cybersquatting and Trademark Infringement, E-law, vol 7, N 3.

<sup>150</sup> www.nikke.com

line shopping web page, but with the average consumer it may arise association with the .nike.com domain, which belongs to the NIKE®<sup>151</sup> company. In the jurisprudence of the Republic of Macedonia, we are familiar with the google.com.mk, yahoo.com.mk domain cases. Domain hijacking is different from the “honest competition use” of a domain. We could use the comparison of the mtv.com and mtv.com.mk domains as an example for this situation, even though both subjects come from the same line of business. <sup>152</sup>

On additional level, the foundation of the difficulties emerges from the constellation between the domain names and the marks, regardless of whether it is about the actions of the cybersquatter or same marks that strive towards one domain name, is exactly in the previously mentioned registration priority principle. If the holder of a mark desires to register a domain name, he would encounter serious complications if a registration of a domain had previously been completed by the cybersquatter. The goal of the cybersquatter, acting in bad faith, is to acquire incomes by registering somebody else’s mark or “to dilute” a renowned mark as a domain name, and to later offer the domain name to the mark holder. The domain registration, as well as its maintenance, does not need a lot of money compared to the extorted sum for transferring the domain name to the mark holder. In this way, the cybersquatter would groundlessly gain wealth, acting in bad faith (*mala fides*).<sup>153</sup>

Concerning the dispute resolution, in most of the cases alternative dispute resolution is applied.<sup>154</sup>

Hence, one of the parties is the person who is most often the trademark holder or a legal or physical person who believes that his/her interest is endangered by the domain (*petitioner, appellant, complainant*), while the other party is the person who registered the domain (*domain holder, respondent*). Due to the sensitivity of the matter, but also from economic motives, disputes regarding domains are most commonly subject to alternative dispute resolution. The parties, however, may initiate a court procedure for the domain, even

---

<sup>151</sup> www.nike.com

<sup>152</sup> Наумовски, Г. (2013). Право и информатичка технологија [Information Technology Law. In Macedonian]. Правен факултет „Јустинијан Први“ Скопје, p. 109.

<sup>153</sup> Ibidem.

<sup>154</sup> The purpose of the Alternative Dispute Resolution (ADR) in information technology law, as in any other legal branch, is to enable dispute resolution in an efficient, time and money saving manner for the parties. This is a rational alternative to the judicial process. In regard to the domains, this is even more evident, bearing in mind the distance of the parties in dispute of the domain. Наумовски, Г. (2013). Право и информатичка технологија [Information Technology Law. In Macedonian]. Правен факултет „Јустинијан Први“ Скопје, p. 111.

if a decision had already been made in the alternative dispute resolution procedure. In most national legislations, there are several regimes for regulating cases involving domains, especially in terms of cybersquatting. In this regard, Comparative law analysis points out several examples of legislative intervention:

*-15 U.S. Code § 1125 - False designations of origin, false descriptions, and dilution forbidden:*

“...d) Cyberpiracy prevention

(1) (A) A person shall be liable in a civil action by the owner of a mark, including a personal name which is protected as a mark under this section, if, without regard to the goods or services of the parties, that person—

(i) has a bad faith intent to profit from that mark, including a personal name which is protected as a mark under this section; and

(ii) registers, traffics in, or uses a domain name that—

(I) in the case of a mark that is distinctive at the time of registration of the domain name, is identical or confusingly similar to that mark;

(II) in the case of a famous mark that is famous at the time of registration of the domain name, is identical or confusingly similar to or dilutive of that mark; or

(III) is a trademark, word, or name protected by reason of section 706 of title 18 or section 220506 of title 36...”

“...(B)(i) In determining whether a person has a bad faith intent described under subparagraph (A), a court may consider factors such as, but not limited to—

(I) the trademark or other intellectual property rights of the person, if any, in the domain name;

(II) the extent to which the domain name consists of the legal name of the person or a name that is otherwise commonly used to identify that person;

(III) the person’s prior use, if any, of the domain name in connection with the bona fide offering of any goods or services;

(IV) the person’s bona fide non-commercial or fair use of the mark in a site accessible under the domain name;

(V) the person’s intent to divert consumers from the mark owner’s online location to a site accessible under the domain name that could harm the goodwill represented by the mark, either for commercial gain or with the intent to tarnish or disparage the mark, by creating a likelihood of confusion as to the source, sponsorship, affiliation, or endorsement of the site;

(VI) the person’s offer to transfer, sell, or otherwise assign the domain name to the mark owner or any third party for financial gain without having used, or having an intent to use, the domain name in the bona fide offering of any goods or services, or the person’s prior conduct indicating a pattern of such conduct;



(VII) the person's provision of material and misleading false contact information when applying for the registration of the domain name, the person's intentional failure to maintain accurate contact information, or the person's prior conduct indicating a pattern of such conduct;

(VIII) the person's registration or acquisition of multiple domain names which the person knows are identical or confusingly similar to marks of others that are distinctive at the time of registration of such domain names, or dilutive of famous marks of others that are famous at the time of registration of such domain names, without regard to the goods or services of the parties; and

(IX) the extent to which the mark incorporated in the person's domain name registration is or is not distinctive and famous within the meaning of subsection (c).”

-Concerning the European Union legislation, the cases of doubtful domain registrations and misuse and exploitation are dealt either in civil procedure, or through an alternative dispute resolution. In this sense, Article 21 of the Regulation 874/2004 provides that:

“..Speculative and abusive registrations

1. A registered domain name shall be subject to revocation, using an appropriate extra-judicial or judicial procedure, where that name is identical or confusingly similar to a name in respect of which a right is recognised or established by national and/or Community law, such as the rights mentioned in Article 10(1), and where it:

(a)has been registered by its holder without rights or legitimate interest in the name;  
or

(b)has been registered or is being used in bad faith.

2. *A legitimate interest within the meaning of point (a) of paragraph 1 may be demonstrated where:*

*(a)prior to any notice of an alternative dispute resolution (ADR) procedure, the holder of a domain name has used the domain name or a name corresponding to the domain name in connection with the offering of goods or services or has made demonstrable preparation to do so;*

*(b) the holder of a domain name, being an undertaking, organisation or natural person, has been commonly known by the domain name, even in the absence of a right recognised or established by national and/or Community law;*

*(c) the holder of a domain name is making a legitimate and non-commercial or fair use of the domain name, without intent to mislead consumers or harm the reputation of a name on which a right is recognised or established by national and/or Community law.*

*3. Bad faith, within the meaning of point (b) of paragraph 1 may be demonstrated, where:*

*(a) circumstances indicate that the domain name was registered or acquired primarily for the purpose of selling, renting, or otherwise transferring the domain name to the holder of a name in respect of which a right is recognised or established by national and/or Community law or to a public body; or*

*(b) the domain name has been registered in order to prevent the holder of such a name in respect of which a right is recognised or established by national and/or Community law, or a public body, from reflecting this name in a corresponding domain name, provided that:*

*(i) a pattern of such conduct by the registrant can be demonstrated; or*

*(ii) the domain name has not been used in a relevant way for at least two years from the date of registration; or*

*(iii) in circumstances where, at the time the ADR procedure was initiated, the holder of a domain name in respect of which a right is recognised or established by national and/or Community law or the holder of a domain name of a public body has declared his/its intention to use the domain name in a relevant way but fails to do so within six months of the day on which the ADR procedure was initiated;*

*(c) the domain name was registered primarily for the purpose of disrupting the professional activities of a competitor; or*

*(d) the domain name was intentionally used to attract Internet users, for commercial gain, to the holder of a domain name website or other on-line location, by creating*

*a likelihood of confusion with a name on which a right is recognised or established by national and/or Community law or a name of a public body, such likelihood arising as to the source, sponsorship, affiliation or endorsement of the website or location or of a product or service on the website or location of the holder of a domain name; or*

*(e)the domain name registered is a personal name for which no demonstrable link exists between the domain name holder and the domain name registered.”<sup>155</sup>*

As far as the alternative dispute resolution is concerned, in 1999, the Internet Corporation for Assigned Names and Numbers (ICANN) adopted the Uniform Domain Name Dispute Resolution Policy (UDRP Policy), as well as the UDRP Rules that regulate the administrative procedure for resolving domain disputes.<sup>156</sup>

The UDRP rules have double goals: to remove bad faith domain holder from the virtual space and to enable the complainant (mark holder) to get the domain to which he has a legitimate right. UDRP rules apply to dispute resolution regarding generic top-level domains (gTLD): .com, .net, .org, .biz, .name, .info, .pro, .coop, .aero, .museum, .job and .travel. UDRP is accepted only for some of the national domains (e.g., .nu, .tv, .ws).<sup>157</sup>

The procedure begins by submission of a complaint by the trademark holder, in which he/she states the relevant facts. The entire procedure is shown on the picture below.

Under the UDRP Rules, it is quite probable that the domain holder would lose the right to the domain, in case when the trademark holder submits a complaint, which has proved that *the domain name was registered in any of the following cases:*

---

<sup>155</sup> Commission Regulation (EC) No 874/2004 of 28 April 2004, laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32004R0874&from=EN>

<sup>156</sup> The dispute is decided by one or a panel of mediators, selected from an international list of experts kept in one of the organizations that may conduct the proceeding (dispute resolution providers, i.e. centres). The panel decides having in mind the purpose of the UDRP and the supplemental rules of each dispute resolution centre. See: <https://www.icann.org/resources/pages/policy-2012-02-25-en> . Currently the list of dispute resolution providers includes: The Arab Center for Dispute Resolution (<http://acdr.aipmas.org/default.aspx?lang=en>); the Asian Domain Name Dispute Resolution Centre (<https://www.adndrc.org/mten/index.php>); The Czech Arbitration Court Arbitration Centre for Internet Disputes (<http://www.adr.eu/index.php>); the Forum (formerly National Arbitration Forum) (<http://www.adrforum.com/domains>) and the WIPO Arbitration and Mediation Center (<http://www.wipo.int/amc/en/center/background.html>).

<sup>157</sup> The maintenance of the national top-level domains (ccTLD) is under the authority of a separate Agency of the International Standardization Organization (ISO 3166 Maintenance agency (ISO 3166/MA)), in accordance with the IANA procedures (<http://www.iana.org/domains/root/cctld/>).

- a) “...Primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name”;
- (b) “....in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct”;
- (c) “primarily for the purpose of disrupting the business of a competitor”;
- (d) by using the domain name, there was an attempt “to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location”.<sup>158</sup>

## 1.2. Recent Theoretical Approaches Concerning Trademark Law

New and developing phenomena continue to challenge contemporary intellectual property theory, mostly due to its dynamic character evolving from its concentration on the human creation. This peculiarity and at the same time exquisiteness of modern intellectual property legal theory, is diligently addressed by professor Hassler: <sup>159</sup>

*“Have our rights become too complex? With the age, a mature lawyer might fall in temptation to remake the world. On his scale, he could dream of simplifying intellectual property, rediscovering the purity of its direct lines, bringing order in the current mess, reorganizing the chaos.”<sup>160</sup>*

In this context, he further on analyzes the sophistication of intellectual property law, indicating among other “*the technicity, dispersion of texts which make the law to explode into multitude of regulations so that poor lawyers’ brains have the misfortune to embrace and overcome*”.<sup>161</sup>

Trademark law theory seems to be part of this challenge as well. The specific approach in trademark studies relies both on sophistication and on particularities of trademarks when compared to other intellectual property rights.

---

<sup>158</sup>UDRP, Paragraph 4, Available at: <https://www.icann.org/resources/pages/policy-2012-02-25-en>

<sup>159</sup> Hassler, T. (2014). La sophistication du droit de la propriété intellectuelle. Le droit de de la propriété intellectuelle dans un mond globalisé. Mélanges en l’honneur du professeur Joanna Schmidt-Szalewski, Collection du CEIPI, No.61, p.193-206.

<sup>160</sup> Ibid.

<sup>161</sup> Ibid.

As Basire,<sup>162</sup> has properly noted:

*“The utilization of a sign based on trademark right results from a choice which is a fruit of an intellectual activity. Surely, its result does not have a technical vocation like the invention, or aesthetic like the spiritual works, but it has a distinct vocation. It is the relation between the sign and the products and services concerned by this sign which makes the object of the creation.”*

Another phenomenon of trademarks, justifies the intense and persistent research: its economic dimension. Contemporary theory often outlines examples of the trademarks being more influential than other symbols such as religious symbols. Beebe for instance,<sup>163</sup> elaborates several examples of such trademarks:

*“...APPLE, GOOGLE, COKE, MICROSOFT, SAMSUNG, TOYOTA, MCDONALDS, LOUIS VUITTON, NIKE, PEPSI, FACEBOOK, VISA, CITI, STARBUCKS, MASTERCARD. Instantly recognizable by a very large proportion of humanity, these are among the most valuable and influential signs in the world, rivalling in significance many religious and national symbols. They are only the most notorious of the millions of brand names that populate the modern marketplace. Trademark law regulates these brand names, from the multi-billion dollar global brands to the name of the local shop down the street. Without trademark protection, many would cease to exist.”*

Presented below are the latest considerations of scholars on raising trademark law issues on global level that are relevant for our research.

For instance, Griffiths,<sup>164</sup> In one of his latest researches, reviewing the issue of quality, has commenced by particularizing at least two important legal dimensions. Firstly, the fact that trademark registration provides obtaining an exclusive right to “confer a distinctive identity on its products”, and secondly, the so-called system of “undistorted competition”, i.e. the key role of trademarks in providing companies to entice and keep consumers and to afford them quality guarantee.<sup>165</sup> It seems that Griffiths consideration of the quality is significant point of departure in any trademark research, since it introduces a strong component of the interdisciplinary social and economic justification for the contemporary legal approach of trademark theory.

Bottero, Magnani and Ricolfi,<sup>166</sup> in 2007 have also examined the issue of quality in the frameworks of studies of the “strong trademarks”. They suggest that:

---

<sup>162</sup> Basire, Y. (2017). L'essence du Droit de la propriété industrielle. Issy-les-Moulineaux: Gualino.

<sup>163</sup> Beebe, B. (2016). Trademark Law: An Open-Source Casebook, Available online at: <http://tmcasebook.org/>

<sup>164</sup> Griffiths, A. (2013). Quality in European Trade Mark Law. *Northwestern Journal of Technology and Intellectual Property*, 11(7), p. 622-640.

<sup>165</sup> As an argument for this legal aspect of quality, Griffiths presents the Case C-349/95, *Loendersloot (Frits) v. Ballantine* 1998 E.C.R. I-6244 ¶ 22 (Ibid).

<sup>166</sup> Bottero, N., Mangani, A., Ricolfi, M. (2007). The Extended Protection of “Strong Trademarks”. *Marquette Intellectual Property Law Review*, 11(2), p.266-289.

*“Legal evolution evidences that trademarks are currently protected not only to avoid consumer confusion, but also to provide firms with an adequate return on investments made to create and maintain strong brands.”*

Consequently, these authors address several points, among which three points are of particular importance : 1) tendencies in the trademarks’ function doctrine in which there is a debate between the traditional legal and modern economic approaches, with reference to the antidilution as provided in Article 163(3)<sup>167</sup> of the Trade-Related Aspects of Intellectual Property Rights (TRIPs Agreement); 2) the necessity to research beyond the view that trademarks are just incentives and “self-enforcing mechanisms” and to go deeper in the trademark protection and function research; and 3) the rationale for protection of “strong” trademarks Hence, the authors view is that it is obvious that an prolonged protection can avoid welfare losses in cases where product diversity is considered as a vital for the consumers in the context of the trademark utility function.<sup>168</sup>

On the issue of generic trademarks and the possibilities for their re-protection, in 2015, Brody<sup>169</sup> reviewing jurisprudence argues in favor of overcoming the impediments for re-protection, especially in a sense that courts need to be receptive to such opportunity, mainly because of the social benefits of this process (such as economic advantages, as well as the consistency with the linguistic justification of the re-protection). He concludes that:

*“If a generic term falls into disuse and primary significance can be reestablished, society benefits from the term’s re-protection as a trademark. In such a case, issue preclusion ought not to be a bar to re-protection. Proper incentives and a reduction of abusive litigation can instead be achieved through the use of one-way fee-shifting. Through this mechanism, society can take advantage of the stock of disused formerly generic terms without risking anticompetitive behavior by dominant market players.”<sup>170</sup>*

Concerning trademark distinctiveness, Vaccaro,<sup>171</sup> reviews it as one of the basic trademark functions. His focus on distinctiveness is in the boarder spectrum on trademark functions, namely: origin; guarantee of quality; publicity and information; competitiveness; protection

---

<sup>167</sup> Article 163(3) of the TRIPs: Article 6bis of the Paris Convention (1967) shall apply, mutatis mutandis, to goods or services which are not similar to those in respect of which a trademark is registered, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use.

<sup>168</sup> Bottero, N., Mangani, A., Ricolfi, M. (2007). The Extended Protection of “Strong Trademarks”. *Marquette Intellectual Property Law Review*, 11(2), p.266-289.

<sup>169</sup> Brody, J.P. (2015). Re-protection for Formerly Generic Trademarks. *The University of Chicago Law Review*, 2(1), p.475-516.

<sup>170</sup> *Ibidem*.

<sup>171</sup> Vaccaro, C.S. (2012). Distintividad y Uso de las Marcas Comerciales. *Revista Chilena de Derecho*, 39(1), pp.9 - 31.

of the trademark holder; consumer protection; economic effects.<sup>172</sup> He offers an etymological analysis to comprehend the distinctiveness as a trademark function, through the meaning of two terms: the verb "to distinguish" that implies that a product (good or service) differs from other products by means of a mark (since in most of the dictionaries, its definition is referenced to putting signs, marks, currencies, etc.), and "to differentiate" that would mean making one product (good or service) from another in a broader context. Hence, the distinctiveness (to distinguish) is associated more to the core issue, this is the mark, whereas the differentiation would focus on the object itself, the product.<sup>173</sup> This author furthermore, offers a definition of the distinctiveness from the aspect of its aim:

*"Distinctiveness is a feature, function and requirement for registration of trademarks. It is a flexible and dynamic concept, which varies according to the use of the trademark sign. In that sense, the way of how to use the sign determines its distinctiveness, creating, increasing or even losing the trademark, which could affect the registration of trademark. This is the basis of the close link between use of the mark, its distinctive capacity and trademark registration".<sup>174</sup>*

One of the emerging issues in the milieu of relations between trademarks and copyright is the consideration of trademark conception of moral right, analyzed in 2012 by Tang.<sup>175</sup> Examining all the aspects of this concept as manifestation of legal dimension of the relationship between art and commerce, the author argues that:

*"...mere copyright protection for visual art is not enough, cloaking "fine art" objects with a class of protection far less extensive than the wide plethora of legal remedies a trademark holder has under trademark law. Instead, a comparison of moral rights with trademark law will reveal that moral rights are (a) neither unique nor unprecedented in American intellectual property law and (b) highly economic in character. In undertaking this analysis, I hope to update the outdated justifications behind moral rights for the contemporary era of artist "factories" and assistant-made, rather than artist-made, products."<sup>176</sup>*

---

<sup>172</sup> Ibid.

<sup>173</sup> Vaccaro, C.S. (2012). Distintividad y Uso de las Marcas Comerciales .Revista Chilena de Derecho, 39(1), pp.9 - 31.

<sup>174</sup> Ibid.

<sup>175</sup> Tang, X. (2016). The Artist as Brand: Toward a Trademark Conception of Moral Rights. The Yale Law Journal, 122 (1). p.218-255.

<sup>176</sup> Ibid.

The author offers contests the view that moral rights are with no economic dimension: since art objects are also consumer goods, moral rights and trademarks have more convergences than divergences, which is also proven by the opinion that moral rights, similar to trademark law (which I use to encompass trade dress<sup>117</sup> as well), can

*“... regulate a set of distinctly economic rights—both by decreasing search costs for art buyers and the art-viewing public, and by giving artists an incentive to create without having other actors unfairly reap the benefits of their goodwill (which, in turn, incentivizes the creation of a consistent, quality body of work).”<sup>177</sup>*

The latest issues in trademark law, also include the relations between trademarks and the digital society. This interdependence is manifested in several layers: the domain name disputes (including cybersquatting cases); linking; meta-tagging and framing

Cybersquatting has become a new battlefield for trademark law. The style of the media as well as the expansion of the social networks (social media) even more highlight the position of the convergence of domain names and trademarks. The UDRP remains a solid pillar for forthcoming dispute resolutions mechanisms. The notions of trademark law and information technology law are vital and consistent theoretical framework for regulation of the domain name disputes, with proper assistance of competition law regulations. Furthermore, they provide possibilities for additional international instruments (specifically agreements) in the field of domain name disputes.<sup>178</sup> National legislations address this necessity through providing specific legislation acts on cybersquatting (such in the case of Belgium<sup>179</sup>), sections in relevant IP laws (Italy<sup>180</sup>) separate secondary legislations (Austria, France, Germany, Russian Federation, Switzerland, Turkey, United States of America etc.)<sup>181</sup>, or through implementation of the European legislation.<sup>182</sup>

---

<sup>177</sup> Ibid.

<sup>178</sup> For the relations between trademarks and domain names see: Naumovski, G., Popovic, D. (2012). Information Technology Law. Tempus project 144582. Skopje: SS.Cyril and Methodius University; Naumovski, G., Akimovska, P. M., Stojkov, A.(2011). A Review of Certain Cases Under the Uniform Domain Name Dispute Resolution Policy (UDRP) with reference to Sports Domain Names. Research in Kinesiology, 39(1), p.23-30.

<sup>179</sup> Loi relative à l'enregistrement abusif des noms de domaine, Moniteur Belge-Belgisch Staatsblad, 09.09.2003, p.45225-45227.

<sup>180</sup> Article 12 and Article 22 of the Italian Code of Industrial Property, Legislative Decree N°30 of 10 February 2005, available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=306222](http://www.wipo.int/wipolex/en/text.jsp?file_id=306222).

<sup>181</sup> A consistent analysis on comparative domain name law is conducted by Bettinger & Waddel: Bettinger, T., Waddel, A. (2015). Domain Name Law and Practice, An International Handbook. New York: Oxford University Press.

<sup>182</sup> Commission Regulation (EC) No. 560/2009 of 26 June 2009 amending Regulation (EC) No. 874/2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the



The key topics in European trademark law, particularly in the context of its future development, are perhaps most aptly described by Kur,<sup>183</sup> in her work regarding the Trademark Study<sup>184</sup> as a contribution of the functioning of the EU trademark system. She outlines mainly focuses on two issues: Coexistence (system competition); and Rights conferred and limitations, the latter being examined through analysis of: “use as a mark” and trademark functions; likelihood of confusion and extended protection; marks having a reputation and well-known marks under Article 6bis Paris Convention; and Limitations and Exceptions.<sup>185</sup> Also in the same context of after profound of several cases analysis from the jurisprudence of the Court of Justice of the European Union (CJEU),<sup>186</sup> the same author<sup>187</sup> comes to several important conclusions as characteristics of contemporary European trademark law, such as: 1) in terms of intersection of unfair competition and trademark law, the CJEU generally leave the duty of concrete assessment to the national courts that estimate trademark law through the unfair competition principles; and 2) the absence of coherent legal system for essential fairness principles in European law, causes national laws to affect European trademark law in an adverse manner.<sup>188</sup>

---

principles governing registration; European Union (EU) Commission Regulation(EC) No. 1255/2007 of 25 October 2007 amending Commission Regulation (EC) No. 874/2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration; European Union (EU) Commission Regulation (EC) No. 1654/2005 of 10 October 2005 amending Regulation (EC) No. 874/2004 laying down public policy rules concerning the implementation and functions of the .eu Top Level Domain and the principles governing registration; European Union (EU) Commission Regulation (EC) No. 874/2004 of 28 April 2004 laying down public policy rules concerning the implementation and functions of the .eu TopLevel Domain and the principles governing registration;European Union (EU) Commission Decision of 21 May 2003 on the designation of the .eu Top Level Domain Registry.

<sup>183</sup> Kur, A. (2013). Evaluation of the Functioning of the EU Trademark System: The Trademark Study. Constructing European Intellectual Property. European Intellectual Property Institutes Network Series. Cheltenham, UK, Northampton, MA, USA: Edward Elgar, p. 123-136.

<sup>184</sup> Study on the Overall Functioning of the European Trade Mark System.Max Planck Institute for Intellectual Property and Competition Law Munich.15.02.2011. Available at: [http://ec.europa.eu/internal\\_market/indprop/docs/tm/20110308\\_allensbach-study\\_en.pdf](http://ec.europa.eu/internal_market/indprop/docs/tm/20110308_allensbach-study_en.pdf)

<sup>185</sup> Kur, A. (2013). Evaluation of the Functioning of the EU Trademark System: The Trademark Study. Constructing European Intellectual Property. European Intellectual Property Institutes Network Series. Cheltenham, UK, Northampton, MA, USA: Edward Elgar, p. 123-136.

<sup>186</sup> Kur, A.(2014). Trademarks Function, Don’t They? CJEU Jurisprudence and Unfair Competition Principles, International Review of Intellectual Property and Competition Law, 45 (2014), p. 434-454.

<sup>187</sup> Ibid.

<sup>188</sup> Ibid.

## 2. THE CONCEPT OF HUMAN COGNITIVE ABILITIES AND CONATIVE CHARACTERISTICS

### 2.1. Cognitive Abilities

In theory, usually the classification of mental processes includes three categories: cognition, affection and conation.<sup>189</sup> In this classification, cognition is the general term for each process by which one organism becomes conscious for a certain thing, or acquires knowledge for a certain thing.<sup>190</sup> Some of the authors that also propose classification of three types of experiences (cognitive, emotional and motivational),<sup>191</sup> explain cognition as a kind of experience through which the individuals get to know the objective, outer world, i.e. its action on the individuals (cognitive experiences), which as definition lays within the framework of the contemporary formula (stimulus-organism-reaction):  $S \rightarrow O \rightarrow R$ .<sup>192</sup> Hence, in the traditional terminology the spectrum for synonyms for cognition also includes: reasoning, understanding, perceiving, noticing, concluding etc.<sup>193</sup>

The etymological analysis of the term “cognition” reveals that its origin is from the Latin word *cognitio, ōnis, f. [cognōscō, nōvi, nītum]* which has several meanings: knowing, acquaintance, perception, finding out.<sup>194</sup>

The theory of cognition defines cognitive abilities as any abilities that concern some class of cognitive tasks (any task in which correct or appropriate processing of mental information is critical to successful performance).<sup>195</sup>

---

<sup>189</sup> English, H.B., English, A.C (1958). Comprehensive dictionary of psychological and psychoanalytical terms. New York: David McKay Co.

<sup>190</sup> Ibid.

<sup>191</sup> Petz, B. (2010). Uvod u psihologiju [Introduction to Psychology. In Croatian]. Jastrebarsko: Naklada Slap, pp. 24-27.

<sup>192</sup> Ibid.

<sup>193</sup> English, H.B., English, A.C (1958). Comprehensive dictionary of psychological and psychoanalytical terms. New York: David McKay Co.

<sup>194</sup> Divković, M. (1988). Latinsko-hrvatski rječnik za škole [Latin-Croatian Dictionary for Schools: In Croatian]. Zagreb: Naprijed, p. 199-200.

<sup>195</sup> Caroll, J.B. (1993). Human Cognitive Abilities. A Survey of Factor Analytic Studies. New York: Cambridge, p.10.

Sternberg,<sup>196</sup> considers that following scientific fields of interest are directly challenged by cognition as phenomenon: 1) Structures and processes in human brain as basis of structures and processes of the human cognition (addressed by cognitive neuroscience); 2) Attention and consciousness, i.e. what are the profound psychological processes that steer the way of entrance of information into our psyche, our awareness and processing of information on the highest level; 3) How does human mind percept what the human sensors accept and how does the mind achieve differentiation of shapes and forms (issues of human perception); 4) Memory processes, i.e. how is information kept into memory and how do we recall it when needed; 5) Representation and organization of knowledge, or in other words how do we organize mentally the things that we know; 6) Nature and acquisition of language, in the sense of appropriation of native and foreign languages; 7) The use of language in the interaction with the way of thinking and our social world; 8) Creativity and resolving problems and which processes facilitate or burden the solution of problems; 9) Decision making and reasoning: how often do we make wrong decisions and why; 10) Cognitive development-changes of thinking during our lives and what influences these changes; and 11) Human and artificial intelligence: why are some people more intelligent than others and thus capable of achieving more in their areas of activity. It seems that all these questions are directly linked to the comprehension of trademarks and therefore need to be considered when conducting trademarks' research.

One of the most prominent neuropsychologists, Alexander Luria has described the human brain as "*the organ of freedom*", and outlined the eternal challenge for science to "*come to a scientific solution of the old riddle of man's free activity and conscious behavior*".<sup>197</sup> In his approach for determination of the basic principles of the functional organization of the human brain, he presented a system of three basic functional units (blocks) that constitute the human brain as a complex functional system, in which each block contributes to the common work of all three blocks.<sup>198</sup> The blocks, graphically represented in Picture 1 are:

---

<sup>196</sup> Sternberg, R.J. (2005). Kognitivna Psihologija [Cognitive Psychology: In Croatian]. Jastrebarsko: Naklada Slap, pp.25-26.

<sup>197</sup> Luria, A.R. (1971). The Origin and Cerebral Organization of Man's Conscious Actions. *Proceedings of the Nineteenth International Congress of Psychology*, London, 1969 (pp.37-52). International Union of Scientific Psychology and the British Psychological Society.

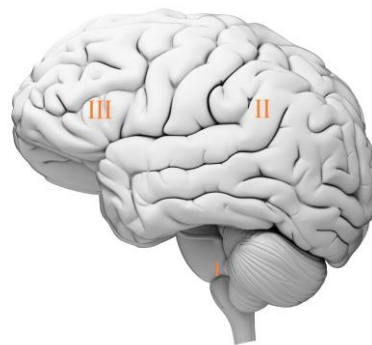
<sup>198</sup> Idem.

-Block I (*Energy and Tone*), “is composed of the upper brain stem, the reticular formation and to certain degree the oldest part of the limbic cortex and the hippocampus and is responsible for the stable tone of the cortex and for the state of vigilance”;

-Block II (*Input, Re-coding and Storage of Information received from the external and proprioceptive world*). This block, “includes the posterior parts of the hemispheres with the occipital, parietal and temporal regions as well as their underlying structures.”

-Block III (*Frontal Lobes*). According to Luria, “there are many reasons to suppose that this part of the brain plays an important role in the realization of the plans and programs of human actions and in the regulation and the control of human behavior”.

Blocks II and III mostly refer to the cognitive processes in way that afferent information of these functional units are integrated in the processes of so called simultaneous or symbolical synthesis, which take place in the secondary or tertiary parts of the cortex and contribute in the cognitive processes of different complexity (perceptual, mnestic and complexed intellectual processes).<sup>199</sup>



Picture 1:

### Luria's System of Blocks of Organization of the Human Brain<sup>200 201</sup>

---

<sup>199</sup> Momirovic, K., Bosnar, K., Horga, S. (1982). Kibernetički model kognitivnog funkcioniranja: pokušaj sinteze nekih teorija o strukturi kognitivnih sposobnosti. [A Cybernetic Model of Cognitive Function: An Attempt at a Synthesis of Certain Theories on the Structure of Cognitive Abilities. In Croatian]. *Kineziologija* 14 (5), p.63-82.

<sup>200</sup> Schatz, P. (2017). Saint Joseph's University Neuropsychology, Psy 2121, Course Information: A Neuropsychological Framework: Luria's Working Brain. Available at: <http://schatz.sju.edu/neuro/luria/luria.html> .

<sup>201</sup> Illustration from istockphoto.com (in accordance with the conditions for use) , Adapted by: G. Naumovski.

In the same context, Das, Kirby and Jarman, have accurately noted that cognitive abilities need to be examined in the context of the processes.<sup>202</sup> Therefore, based on the previous approaches of Luria,<sup>203</sup> Das, Kirby and Jarman have proposed a model for information integration that has four units: the input, the sensory register, the central processor and the unit for output, that can graphically be represented at the Picture 2.

Hence, there are three components of the central processing: the first component is for processing of separate information into simultaneous groups; the second for processing of discrete information into temporally organized successive series; and the third one (thinking) for decision making and planning based on the previous two components.<sup>204</sup>

In the context of the abilities, the same authors outline that “*the equivalence of structure (mental age) implies an equivalence of ability, so the differences on must be understood in terms of the processes which the person uses*”, which can be furthermore explained through an analogy with hardware and software of the computer, in which “*abilities as structure represent the machinery of the computer, which to a certain extent limits the types of processes or programs*”.<sup>205</sup> However, in this analogy, as the authors quote Broadbent’s comment “*various kinds of organization of data can be implemented on the same computer; and the reasons for preferring one to another have little to do with the machinery, but rather with properties of the organization itself*”.<sup>206</sup> (Broadbent, 1971, p. 478).

---

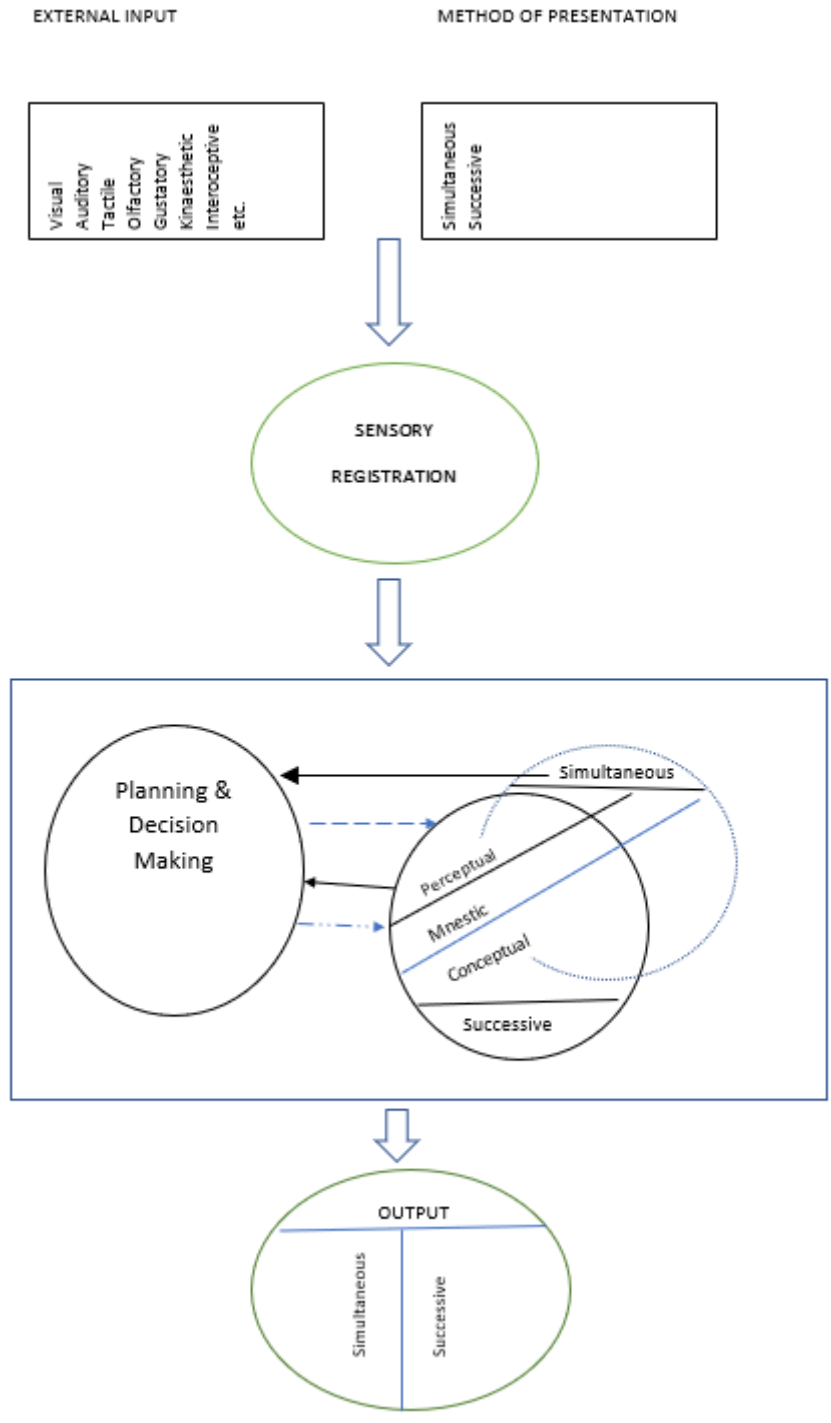
<sup>202</sup> Das, J.P., Kirby, J., Jarman, R.F. (1975). Simultaneous and Successive Syntheses: An Alternative Model for Cognitive Abilities. Psychological Bulletin, 82(1), 87-103.

<sup>203</sup> Ibid.

<sup>204</sup> Ibid.

<sup>205</sup> Ibid.

<sup>206</sup> Broadbent, D.E. (1971). Decision and stress. London: Academic Press, quoted by Das, J.P., Kirby, J., Jarman, R.F. (1975). Simultaneous and Successive Syntheses: An Alternative Model for Cognitive Abilities. Psychological Bulletin, 82(1), p. 102.



Picture 2: Model of information integration developed by Das, Kirby and Jarman

One of the most significant findings on the human cognitive abilities is the survey of factor analytic studies of the cognitive abilities, conducted by Carroll in 1993.<sup>207</sup> By analyzing data from more than 460 factor analytic studies during the last century, he presents the following structure of cognitive abilities (three-stratum theory): narrow, specific level abilities (stratum I), broad abilities (stratum II) and single general cognitive ability, general intelligence (stratum III).

Hence, general intelligence (3G) as a single general cognitive ability includes:

-Fluid intelligence (2F\*): a) level factors: general sequential reasoning (RG); Induction (I); Quantitative Reasoning (RQ); Piagetian Reasoning (RP); and b) speed factors: Speed of Reasoning (RE?).

-Crystallized intelligence (2C\*): a) level factors: Language Development (LD); Verbal (Printed) Language Comprehension (V); Lexical Knowledge (VL); Reading Comprehension (RC); Reading Decoding (RD); Cloze Ability (CZ); Spelling Ability (SG); Phonetic Coding (PC); Grammatical Sensitivity (MY); Foreign Language Aptitude (LA); Communication Ability (CM); Listening Ability (LG); Foreign Language Proficiency (KL); b) speed & level factors: Reading Speed (RS); Oral Production and Fluency (OP); Writing Ability (WA).

-General Memory and Learning (2Y): a) level factors: Memory Span (MS); b) speed factors: Associative Memory (MA); Free Recall Memory (M6); Meaningful Memory (MM); Visual Memory (VM); Learning Ability (LT).

-Broad Visual Perception (2V): a) level factors: Visualization (VZ); b) speed factors: Spatial Relations (SR); Closure Speed (CS); Flexibility of Closure (CF); Serial Perceptual Integration (PI); Spatial Scanning (SS); Perceptual Speed (P); c) miscellaneous: Imagery (IM); Length Estimation (LE); Perception of Illusions (PI); Perceptual Alterations (PN).

-Broad Auditory Perception (2U): a) level factors: Hearing and Speech Threshold Factors (UA, UT, UU); Speech Sound Discrimination (US); General Sound Discrimination (U3); Sound-Frequency Discrimination (U5); Sound-Intensity Duration Discrimination (U6); Musical Discrimination & Judgment (UI, U9); Resistance to Auditory Stimulus Distortion

---

<sup>207</sup> Carroll, J.B. (1993). *Human Cognitive Abilities. A Survey of Factor-Analytic Studies*. New York: Cambridge University Press, pp. 577-629.

(UR); Temporal Tracking (UK); Maintaining & Judging Rhythm (UB); Memory for Sound Patterns (UM); Absolute Pitch (UP); Sound Localization (UL).

-Broad Retrieval Ability (2R): a) level factor: Originality/Creativity (FO); b) speed factors: Ideational Fluency (FI); Naming Facility (NA); Associational Fluency (FA); Expressional Fluency (FE); Word Fluency (FW); Sensitivity to Problems (SP); Figural Fluency (FF); Figural Flexibility (FX).

-Broad Cognitive Speediness (2S): a) speed factors: Rate of Test Taking (R9); Numerical Facility (N); Perceptual Speed (P).<sup>208</sup>

-Processing Speed (RT Decision Speed) (2T): speed factors: Simple Reaction Time (R1); Choice Reaction Time (R2); Semantic Processing Speed (R4); Mental Comparison Speed (R7).

The taxonomic pertinence in each of the three strata model developed by Carol and adapted by O'Reilly and Carr can be graphically represented at the Picture 3.

---

<sup>208</sup> Perceptual Speed is listed both in 2V and 2S (Idem).



Stratum III	General Intelligence Factor (g)							
Stratum II	Fluid Intelligence	Crystallized Intelligence	General Memory & Learning	Broad Visual Perception	Broad Auditory Perception	Broad Retrieval Ability	Broad Cognitive Speediness	Processing/ Decision Speed
Stratum I	<ul style="list-style-type: none"> <li>-General sequential reasoning</li> <li>-Induction</li> <li>-Quantitative Reasoning</li> <li>-Speed of reasoning</li> </ul>	<ul style="list-style-type: none"> <li>-Language Development</li> <li>-Verbal (printed) language comprehension</li> <li>-Lexical knowledge</li> <li>-Reading comprehension</li> <li>-Cloze ability</li> <li>-Spelling ability</li> <li>-Phonetic coding</li> <li>-Grammatical sensitivity</li> <li>-Foreign language aptitude</li> <li>-Communication ability</li> <li>-Listening ability</li> <li>-Foreign language proficiency</li> <li>-Reading speed</li> <li>-Oral production and fluency</li> <li>-Writing fluency</li> </ul>	<ul style="list-style-type: none"> <li>-Memory span</li> <li>-Associative memory</li> <li>-Free recall memory</li> <li>-Meaningful memory</li> <li>-Visual memory</li> <li>-Learning ability</li> </ul>	<ul style="list-style-type: none"> <li>-Visualization</li> <li>-Spatial relations</li> <li>-Closure speed</li> <li>-Flexibility of closure</li> <li>-Serial perceptual integration</li> <li>-Spatial perceptual integration</li> <li>-Spatial scanning</li> <li>-Perceptual speed</li> <li>-Imagery</li> <li>-Length estimation</li> <li>-Perception of illusions</li> <li>-Perceptual alternations</li> </ul>	<ul style="list-style-type: none"> <li>-Hearing and speech threshold factors</li> <li>-Speech sound discrimination</li> <li>-General sound discrimination</li> <li>-Sound frequency discrimination</li> <li>-Sound intensity discrimination</li> <li>-Musical discrimination and judgment</li> <li>-Resistance to auditory stimulus distortion</li> <li>-Temporal tracking</li> <li>-Maintaining and judging rhythm</li> <li>-Memory for sound patterns</li> <li>-Absolute pitch</li> <li>-Sound localization</li> </ul>	<ul style="list-style-type: none"> <li>-Originality /Creativity</li> <li>-Ideational Frequency</li> <li>-Naming facility</li> <li>-Associational fluency</li> <li>-Expressional fluency</li> <li>-Word fluency</li> <li>-Sensitivity to problems</li> <li>-Figural fluency</li> <li>-Figural flexibility</li> </ul>	<ul style="list-style-type: none"> <li>-Rate of test taking</li> <li>-Numerical facility</li> <li>-Perceptual speed</li> </ul>	<ul style="list-style-type: none"> <li>-Simple reaction time</li> <li>-Choice reaction time</li> <li>-Semantic processing speed</li> <li>-Mental processing speed</li> </ul>

Picture 3: Cognitive Abilities Structure Presentation According to Carroll (adapted by Carr and O'Reilly)<sup>209</sup>

Momirovic and his associates in 1992,<sup>210</sup> have developed a reduced model of cognitive functioning, which assumes that there are three special processors for data processing and a central processor, defined in the following way:

*-Perceptual Processor (Input processor):* a processor for decoding, structuring and research of the input information, which in the interaction with the remaining processors of the cognitive systems, provides a basis for perceptual abilities; the perceptual processor is

<sup>209</sup> Carr, A., Linehan, C., O'Reilly, G. (2016). Intelligence in: Carr, A., Linehan, C., O'Reilly, G., Noonan Walsh, P., McEvoy, J. : *The Handbook of Intellectual Disability and Clinical Psychology Practice*, Routledge, p.96.

<sup>210</sup> Wolf, B.; Momirović, K.; Džamonja, Z. (1992). KOG: Baterija testova inteligencije [Battery of Intelligence Tests: In Serbian]. Beograd: Centar za primenjenu psihologiju.

in fact solving problems with the elements, immediately given in the field of perception of notions.

*-Serial Processor:* this is the processor for successive, serial dealing with data that accomplishes sequential cognitive processes, sequential research of long term and short term memory and analysis of information transformed into certain symbolic code; it is the basis for abstract cognitive abilities.<sup>211</sup> Thus the aim of the serial processor is to transform the information into verbal or numerical code (under the control of the central processor) to analyze the transformed information deriving sequential logical operations and by that to envisage the outcome of the future events, to research the symbolically coded information in the long term and short term memory, or to sequentially browse long term memory, to control the verbal communications with the environment, as well so to transfer the information for these operation to further processing in the central processor. responsible for solving problems with the elements given in any form of symbols (particularly verbal symbols).<sup>212</sup>

*-Parallel processor.* The processor for parallel, simultaneous work on information can accomplish higher number of information flows and simultaneously research long-term and short-term memory; it is the basis for cognitive abilities of spatial type, i.e. its basic aim is to analyze information that derive from different communications channels at the same time, as well as to coordinate the work of the different motoric processors and to submit the results from this operation to the central processor.<sup>213</sup>

---

<sup>211</sup> The serial processor is the basis for the following factors: the Thurstone's verbal relations factor (V), the factor of word fluency (W) and its numerical factor (R); the serial processor is the basis for the Cattell and Horn's factor of crystallized intelligence (G<sub>c</sub>), Spearman's verbal group factor, Vernon's verbal-educational factor (v:ed); verbal group of Guildford's factors; Reuchlin's and Valin's factor of symbolic reasoning (S); and the verbal components of the latent dimensions for the assumed theories of Burt and Alexander. See: K. Momirović (1998). Standardizacija Baterije KOG3 za ispitanike stare 15 godina [Standardization of KOG3 Battery for Subjects at the Age of 15. In Serbian]. Beograd: Centar za primenjenu psihologiju društva psihologa Srbije.

<sup>212</sup> Ibid.

<sup>213</sup> This processor is basis for analysis of correlations in cognitive structures that might, but do not have to be transformed into certain symbolic shape. Hence, it is a basis for: the Thurstone's spatial factor (S) and its reasoning factor (R); Cattell and Horn's the fluid intelligence factor (Gr) (since the program by which it functions are under the strong influence of the genetic factor of the programs by which the serial processor functions); the non-verbal components of the latent dimensions assumed by Burt and Vernon; Alexander's factor of practical intelligence (k:m); Spearman's factor of education of correlations and correlates (E); and Reuchlin and Valin's factor of education (E): K. Momirović (1998). Standardizacija Baterije KOG3 za ispitanike stare 15 godina [Standardization of KOG3 Battery for Subjects at the Age of 15. In Serbian]. Beograd: Centar za primenjenu psihologiju društva psihologa Srbije.

-*Central processor*. The basic function of this processor is to coordinate and control the work of all cognitive and the majority of motoric processors and to integrate the information obtained through the search of long-term or short-term memory or inputted by the perceptive, serial or parallel processor; it has a dominant role in decision making and control of their implementation; it is a real basis of the Spearman's g factor and Eysenck's G factor in the 2<sup>nd</sup> degree space. In fact, the psychological feature often called Intelligence Quotient (IQ) to a major extent depends on the central processor and on the processors directly subordinated to the central processor; due to the organization of the entire cognitive system this feature (IQ) can be evaluated as a certain, not necessary linear combination of measurements by which the efficiency of the perspective, parallel and serial processor is estimated. <sup>214</sup>

The above model is implemented through creation of a battery of validated appropriate measurement instruments (cognitive tests) (KOG3) for the purpose of assessment of the intellectual abilities of the subjects: 1) IT-1, test for assessment of the efficiency of the perceptual processor; 2) IT-2, test for assessment of the efficiency of the parallel processor; 3) ALPHA-7, test for assessment of the efficiency of the serial processor.

Hence, basic cognitive abilities can be subsumed of the efficiency of the perceptive, parallel and serial processor and that there is a strong general cognitive factor that can be attributed to the efficiency of the central processor.<sup>215</sup>

This battery of tests is applied for evaluation of the cognitive abilities of the subjects in our research as well, (See Research Methods (5.2.)), since it is quite suitable and relevant for the trademark characteristics.

## **2.2. Conative Characteristics**

Definitions of conation usually refer to “mental process that activates and/or directs behavior and action” and to “connection of knowledge and affect to behavior and is associated

---

<sup>214</sup> Ibid.

<sup>215</sup> Momirovic, K., Bosnar, K. & Horga, S. (1982). Kibernetički model kongitivnog funkcioniranja: Pokušaj sinteze nekih teorija o strukturi kognitivnih sposobnosti. [A Cybernetic Model of Cognitive Function: An Attempt at a Synthesis of Certain Theories on the Structure of Cognitive Abilities. In Croatian]. *Kineziologija*, 14 (5), 63-82.

with the issue of “why.”<sup>216</sup> Conation is affiliated with various terms such as *intrinsic motivation, goal-orientation, volition, will, self-direction, and self-regulation*.<sup>217</sup> It is the aspect of the mental processes or behavior that inclines to develop into something else; a inner “turmoil” of the organism.<sup>218</sup> Huitt outlines that a person daily faces the following conative issues: What is my life’s purpose and are my actions congruent with that purpose? What are my aspirations, intentions, and goals? On what ideas, objects, events, etc. should I focus my attention? What am I going to do, what actions am I going to take, what investments am I going to make? How well am I accomplishing what I set out to do?<sup>219</sup>

Various models have been developed in order to verify the theories of the structure of conative factors (also known as “trait theories”) such as: the Guildford-Zimmerman temperament model;<sup>220</sup> Cattell’s theory,<sup>221</sup> Eysenck’s theory<sup>222</sup>, the Big Five<sup>223</sup> theory, the Hexaco model<sup>224</sup> etc.

---

<sup>216</sup> Huitt, W., & Cain, S. (2005). An overview of the conative domain. Educational Psychology Interactive. Valdosta, GA: Valdosta State University. Retrieved [07.08.2017] from <http://www.edpsycinteractive.org/brilstar/chapters/conative.pdf>

<sup>217</sup> Ibid.

<sup>218</sup> English, H.B., English, A.C (1958). Comprehensive dictionary of psychological and psychoanalytical terms. New York: David McKay Co., p.234.

<sup>219</sup> Huitt, W., & Cain, S. (2005). An overview of the conative domain. Educational Psychology Interactive. Valdosta, GA: Valdosta State University. Retrieved [07.08.2017] from <http://www.edpsycinteractive.org/brilstar/chapters/conative.pdf>

<sup>220</sup> This model among others includes the following factors: ascendance, sociability, friendliness, thoughtfulness, personal relations, masculinity, objectivity, general activity, restraint and emotional stability. Nugent, Pam M.S., "Guildford-Zimmerman Temperament Survey (GZTS)," in PsychologyDictionary.org, May 11, 2013, <https://psychologydictionary.org/guilford-zimmerman-temperament-survey-gzts/> (accessed August 7, 2017).

<sup>221</sup> According to Cattell, the 16 personality traits are: 1. Warmth (A); 2. Reasoning (B); 3. Emotional Stability (C); 4. Dominance (E); 5. Liveliness (F);6. Rule-consciousness (G);7. Social Boldness (H);8. Sensitivity (I);9. Vigilance (L);10. Abstractedness (M);11.; Privateness (N); 12. Apprehension/Apprehensiveness (O); 13. Openness to change (Q1); 14. Self-reliance (Q2); 15. Perfectionism (Q3); 16. Tension (Q4). See: McLeod, S. A. (2014). Theories of Personality. Retrieved from [www.simplypsychology.org/personality-theories.html](http://www.simplypsychology.org/personality-theories.html)

<sup>222</sup> Eysenck’s approach on the structure of personality is featured by two dimensions of personality: extraversion-intraversion and neuroticism, subsequently supplemented by a third dimension (psychoticism) (See: Eysenck, H. J. & Eysenck, S. B. G. (1976). Psychoticism as a Dimension of Personality. London: Hodder and Stoughton.).

<sup>223</sup> The Big Five model or five factor model refers to the following five dimensions for the human personality: 1) openness to experience, 2) conscientiousness, 3) extraversion, 4) agreeableness, and 5) neuroticism. For the appearance of the model see: Digman, J.M. (1990). "Personality structure: Emergence of the five-factor model". Annual Review of Psychology. 41: 417–440.

<sup>224</sup> According to the Hexaco model developed as a result of a psycholexical study, the six personality-descriptive factors are: Honesty-Humility (H); Emotionality (E); Extraversion (X); Agreeableness (A); Conscientiousness (C); Openness to Experience (O). See: Ashton, Michael C.; Lee, Kibeom; Perugini, Marco; Szarota, Piotr; de Vries, Reinout E.; Di Blas, Lisa; Boies, Kathleen; De Raad, Boele (2004). "A Six-Factor Structure of Personality-Descriptive Adjectives: Solutions From Psycholexical Studies in Seven Languages.". Journal of Personality and Social Psychology. 86 (2): 356–366.

A theory of conative functioning was also presented by Momirović in 1963 and 1971 , referring to the existence of the following primary level conative dimensions: 1) anxiety (A1); 2) phobicness (F2); obsessiveness (O3); compulsiveness (C4); hypersensitivity (S5); depressiveness (D6); inhibitory conversion (I 7); sensory conversion (E8); motor conversion (Z9); cardiovascular conversion (K10); gastrointestinal conversion (G 11); respiratory conversion (R 12); hypochondricness (H 13); impulsiveness (N 14); aggressiveness (T 15) and hypomaniacness (M16).<sup>225</sup> Due to the systematic relations between the Cattell's 2<sup>nd</sup> level factors and the first two Eysenck's factors (N & E) with the model of Momirovic, a basis for cybernetic model of conative functioning was created in 1977, reducing the model into functional structures with high degree of generalizability, especially in terms of inertness on modulating effects of different cultural backgrounds.<sup>226</sup> Thus, the model includes six basic conative regulation systems, namely:<sup>227</sup>

“- **α (ALFA)**- system of regulation and control of the personality defense functions. Located in the limbic system, this regulator modulates the tonic arousal , partly on the basis of programs transferred through genetic code, regularly under the influence of conditioning during the ontogenetic development; the model assumes two-way link between the regulator of defense reaction and the regulator of organic functions, one way link between the regulator of the defense reaction and the regulator of attack reaction, and two-way link between the regulation of the defense reaction and the system for coordination and integration of the regulatory functions, while both systems together with the central cognitive processor are functionally superior to the system for regulation of the defense reaction.<sup>228</sup>

---

<sup>225</sup> Momirović, K. (1982). Prilog formiranju jednog kibernetičkog modela strukture konativnih faktora. [A Contribution to the Formation of a Cybernetic Model for the Structure of Conative factors. In Croatian]. *Kineziologija*, 14 (5), 83-108.

<sup>226</sup> Ibid.

<sup>227</sup> Ibid.

<sup>228</sup> Most of the neurotic disorders (except for psychosomatic disorders) are affiliated with the dysfunction of the regulator of defense reaction. These include: different modalities and symptoms of anxiety which is a basis for special modulated pathological reactions, such as phobia, obsessiveness, compulsiveness; sensor and emotional over sensitivity is at the same time a reason and a consequence of the disorders of this system. Dysfunction of the regulator in conjunction with the dysfunction of the regulator generates depressive modalities of behavior and modalities usually called psychostenic; and heavier depressive, obsessive and compulsive disorders are formed if the dysfunction of the system for coordination of the regulatory functions is present. In this context, ALFA is responsible for the most part of the variance of the Eysenck's factor of general neuroticism or the Cattell's similar (2<sup>nd</sup> level) factor. (Momirović, K., Wolf, B., Džamonja, Z (1998). KON 6 Kibernetička baterija konativnih testova [Cybernetic Battery of Conative Tests. In Serbian]. Centar za primenjenju psihologiju Društva psihologa Srbije: Beograd, pp. 9-12).

- $\chi$  (**HI**) , system of regulation and control of the organic functions. This regulator is formed through conjunction of the subcortical center of the regulation of the organic functions (located in the hypothalamic region) and the superior cortical systems for regulation and control; thus, disorders of this regulator cause functional disruption of the basic organic systems, such as the cardiovascular, respiratory, gastrointestinal and uropoetic system;
- $\sigma$  (**SIGMA**), system of regulation and control of the attack (regulator of the attack reaction) is located in the limbic system, modulates the primary tonic arousal, but on the basis of the program of destructive reactions that are based either in the phylogenetic or in the ontogenetic development; the model allows direct activation of these programs (case of primary aggressiveness), or secondary activation based on the center of regulation of the defense reaction (secondary aggressiveness); disruptions in the regulation and control of the attack are manifested in differently manifested aggressive reactions (some of them as a consequence of the fixation of the oral and anal stage of the libido development; also, weak control of the impulses (that doesn't necessarily lead to destructive reactions) is also a consequence of the dysfunction of the SIGMA regulator;
- $\delta$  (**DELTA**) homeostatic regulation system (system for coordination of the regulatory functions)-coordinates the functions of the subsystems that functionally and hierarchically differ, including the functions of the cognitive processors; hence, this system is functionally superior to the regulators of the organic functions, attack reaction and defense reactions, and to some extent to the regulator of the activity. The disorders of this regulator cause disorganization and dissociation of the cognitive and conative processes and disorders of the motorical functions, especially those depending on the system of regulation of trajectories and the system for synergetic regulation and regulation of the tonus; a consequence of the dysfunction of this system are schizoid, paranoid and manic symptoms, while heavier disorders include inhibitory conversion, fixed phobias, obsessions and compulsions.
- $\eta$  (**ETA**) system of integration of the regulative functions; located probably in the frontal parts of the cortex (according to Luria's research), although the location is not quite clear, has the highest position in the hierarchy of the regulatory systems, having a function to integrate conative changes specially in terms of the structure of the social field and its changes, so the sum of programs that determine the function of this system

is most probably formed in the educational process not only by conditioning, but through enhancement and probably by internalization as well. The degree of socialization is dependent on this regulator, while its disorders lead to social disadaptation.

- **-ε (EPSILON), excitatory and inhibitory processes regulator** (also known as regulator of activity). Extravert and introvert models of behavior (Eysenck's factor of extraversion; Cattell's exvia-invia factor) are partly influenced by this regulator and partly by the functions of the cortical processors. Regulator's disorders induce directly or indirectly abulic, depressive or hypomanic reactions and can affect the efficiency of the functions of the cognitive and motoric processors.

The model offered by Momirović has similarities with the Eysenk's theory of personality, Cattell's theory of personality and also has constructional similarities with the "Big Five" Model and the model of Powel and Royce, i.e. quite up-to-date with the current models of the conative functions.

Therefore, the six tests constructed for the evaluation of the six basic dimensions of this model were quite suitable for our research (tests are explained in : 5.2. *Variables' sample*) : ALPHA-1, test for assessment of the efficiency of the system of regulation and control of the personality defense functions;  $\chi$ -1, test for assessment of the efficiency of the system of regulation and control of the organic functions;  $\sigma$ -1, test for assessment of the efficiency of the system of regulation and control the attack reaction;  $\delta$ -1, test for assessment of the homeostatic regulation system;  $\eta$ -2, test for assessment of the system of integration of the regulation system;  $\varepsilon$ -1, test for regulation of the excitatory and inhibitory processes.

### 3. PRECEDING STUDIES ON TRADEMARKS AND CONSUMERS

In the up-to-date research practice the attempts for scientific examination of the problem of trademarks in the context of cognitive abilities and conative characteristics of consumers are relatively moderate. This predominantly refers to those researches that are postulated and conceived in the boundaries in the manner of which our research is accomplished.

Nevertheless, certain corresponding researches do exist, having results and conclusions with relative exactness, that might create starting criteria for more complex considerations and observations of the research subject, as well as for application and generalization of its results in the practice.

In 1959, Bowen has expressed the view that the legal doctrine should enhance scientific studies consisting of quantity of confusion among registered and unregistered marks in wide-ranging and in specific markets, which will at the same time take into account the real complexity in choosing trademarks out of the quantifiable confusion set.<sup>229</sup> It seems that Bowen offers an interesting guidelines as proposal to all entities concerned by trademark registration and/or litigation in order to be at the safe side: testing the current circumstances regarding confusion and distinctiveness; test the proposed marks in a design including the other marks in the field; and documentation of the trademark selection process as an important tool for future disputes that might occur. He furthermore explains the importance of comprehension of the legal provisions when the law tends to be conservative in protecting surname, geographical, descriptive and other "weak" marks, but also notes the significance of various psychological aspects of the diverse types of marks, affiliated with learning, associations and the public feedback<sup>230</sup>.

---

<sup>229</sup>D .C. Bowen (1959). Trademarks and Psychology. *Journal of the Patent Office Society*, 41(10), 633-667.

<sup>230</sup> Bowen, D .C. (1959). *Trademarks and Psychology*. *Journal of the Patent Office Society*, 41(11), 707-741.



As an argument for the crucial role of trademark surveys and as a forecast for the future inclusion of interdisciplinary methods in intellectual property research, Bowen quotes Da Vinci:

*“I shall begin by making some experiments before I proceed any further; for it is my intention first to consult experience and then show by reasoning why that experience was bound to turn out as it did. This, in fact, is the true rule by which the student of natural effects must proceed: although nature starts from reason and ends with experience, it is necessary for us to proceed the other way around, that is-as I said above-begin with experience and with its help seek the reason. Experience never errs; what alone may err is our judgment, which predicts effects that cannot be produced in our experiments.”*<sup>231</sup>

Through insisting for “special techniques of research relating to trademarks”, Bowen’s moves toward three main components in interdisciplinary trademark research: public policy issues; relativity of confusion; differentiation and nature of the fields in which trademarks are used; and different legal response depending on the local, regional and national use of trademarks.<sup>232</sup>

It appears that Bowen’s study is among those researches that reflect the urge for increased application of social science methodological procedures appropriate to the specificity of trademark law, and therefore has a considerably relevant character as an initial study.

Zeisel and Kaye, in 1997,<sup>233</sup> have realized several trademark studies on genericness and confusion in trademarks. Through analyzing the results of two surveys on the genericness doctrine, the “Thermos” and the “Teflon” surveys, the authors have attempted to contribute for the criteria for estimation of percentage of the consuming public that considers a product name as generic, as sufficient for revoking a trademark. During the “Thermos” survey, the results showed that merely 12% of the subjects considered “thermos” as a trademark, while the

---

<sup>231</sup> *Ibid.*

<sup>232</sup> *Ibid.*

<sup>233</sup> Zeisel, H., & Kaye, D.(1997). *Prove it with Figures. Empirical Methods in Law and Litigation*. New York: Springer, p.147-174.

majority considered is as generic terms, i.e. a term for either an insulated container (75%), or a vacuum bottle (11%). The “Teflon” survey, on the other hand, was conducted by the owners of for the purpose of prevention of “Eflon” as a zipper trademark, claiming confusion. 60% of the respondents answered “yes” to the question whether they knew a brand name or trademark for “protective coatings applied by manufacturers to the inside of house utensils order to prevent food and grease for sticking”, out of which 80% of the respondents indicated “Teflon” as trademark or brand name. Hence, the authors have justly noted that the value of surveys is crucial in determining genericness, also pointing out the formulation of questions as one of the survey’s main issues, along with its quality, execution and plan.<sup>234</sup>

On the issue of likelihood of confusion, Zeisel and Kayne have in the same manner discussed the main issues that should be taken into account while preparing a relevant survey that would be further utilized for consideration by judges and juries : selection of the stimulus (the product itself, advertisement, etc.); the way of presenting the stimulus and how the consumer meets the product (the marketplace); the place of the interview; the relevant elements of the trademark; the control for extraneous variables (example: the senior user's reputation) and avoiding suggestive questions.<sup>235</sup> Hence, Zeisel and Kayne’s approach has a considerably important dimension, since it raises the issue of research methodology rules in trademark research as a pre-condition for solid evidentiary purpose in trademark disputes.

Bergman, Ellingsen, Johannesson and Svensson in 2010 have conducted a study related to the anchoring effect in the context behavior of consumers concerning real purchasing decision, i.e. the decisions are affiliated with independent measures of subjects' cognitive skills.<sup>236</sup> One of the aims of their study was to determine if the consumers with greater cognitive skills would be more opposing irrelevant information for the goods, through an experimental design model involving an inspection six ordinary consumer products (quality wine, an average wine, handmade chocolate truffles, Belgian chocolates, a book on interior design, and a radio transmitter for mp3-players).<sup>237</sup> The authors have concluded that superior cognitive skills decrease the anchoring outcome, or in other words, their study showed similar results to those studies that have proved that “smarter people behave more like the textbook

---

<sup>234</sup> *Ibid.*

<sup>235</sup> *Ibid*

<sup>236</sup> Bergman O., Ellingsen, T., Johannesson, M., Svensson, C. (2010), *Anchoring and cognitive ability*, *Economics Letters*, 107, 66-68.

<sup>237</sup> *Ibid.*

model of "economic man"<sup>238</sup>. Although there are no more complex methods applied in terms of multivariate methods, this research is of significance for the further developments of the study in the area of cognitive abilities and trademarks.

In 2006, Beebe has argued for application of new reform and introduction of a national multifactor test in the United States, which will have a primary aim to assist judges in approximation the outcomes of surveys involving consumer population, for the purpose of trademark infringement litigation, especially when it comes to likelihood of confusion.<sup>239</sup> He suggests that the revised design test would encompass general principles (list of crucial factors; exact phrasing; numeration of the factors starting from the most significant; and notions for exclusion of certain factor from the test, if that has been done), or as he demonstrates, in the form of provisions, it should have the following form:

“In determining whether a mark is likely to cause confusion, or to cause mistake, or to deceive, the court may consider all relevant factors, including the following: (i) the degree of similarity of the marks as perceived by the relevant consumer population; (ii) the degree of proximity of the goods as perceived by the relevant consumer population, including the degree of proximity of marketing methods and channels of distribution and sale; (iii) evidence of actual confusion, mistake, or deception, including survey evidence; (iv) the marketplace strength of the mark allegedly infringed; and (v) the purpose of the alleged infringer in adopting and using its mark and if the purpose is to cause confusion, or to cause mistake, or to deceive, then the likelihood that the alleged infringer will accomplish that purpose.”<sup>240</sup>

Capon and Davis in 1984<sup>241</sup> have researched the basic cognitive ability measures, as predictors of consumer information processing strategies. The authors have come to the conclusion that female consumers show range and diversity in the information processing strategies, i.e. assortment of strategies can be more or less arranged on an ordinal level from simple to complex. Also, as the authors noted “performance on the two consumer tasks is significantly related: subjects using more complex information integration strategies were more

---

238 Ibid.

239 Beebe, B. (2006), *California Law Review*, 94, 6, 1581-1654

240 Beebe, B. (2006), *California Law Review*, 94, 6, 1581-1654

<sup>241</sup> Capon, N., Davis, S. (1984). Basic Cognitive Ability Measures as Predictors of Consumer Information Processing Strategies, *The Journal of Consumer Research*, 11, 551-563.

likely to use more complex information acquisition strategies and vice versa, a result in accordance with an a priori task analysis of the two tasks”.

Diamond and Franklyn in 2014, have outlined that even though trademark surveys are not omnipresent, they have key function, particularly regarding alleged deceptiveness and have supplementary contributions for decisions in litigation, having in this way a complementary impact with other evidence: thus surveys offer veracity test, both on the side of consumer perception and the juridical implication.<sup>242</sup> Through application of a survey comprised of eighteen questions referring to the 465 subjects’ practice with surveys, the authors have identified the most common topics of surveys (Likelihood of confusion: 81.25%; Secondary meaning; 33.3%; Genericism; 18.7%; Deceptive advertising: 15.6%; Dilution, including fame and association:19.8%; Other: 3.1%). In the 54% of the cases, the survey has been decisive and persuaded the client or opponent towards settlement of the dispute; in 36%, the survey was current at preliminary injunction or trial; while it served another purpose in 10% of the cases.<sup>243</sup> Thus, in the conclusion of their research, the authors justify that prospect of surveys in trademark litigation is dependent on the quality of survey (including enhanced survey design), while an perfection of special training for attorneys, experts, and judges is indispensable.<sup>244</sup>

Also in 2014, Fromer and Lemley have reviewed the audience in intellectual property infringement.<sup>245</sup> Making a parallel between patent law and trademark law, the authors pointed out the two extremes of the approach in contemporary IP research features: dominance of experts in patent law research and of market in the trademark law research, suggesting that intellectual property rights infringement study requires focus on the twofold audience, as composed of both experts that evaluate similarity as well as consumer that evaluate substitutability, mentioning the copyright law as a constructive example in this context. These considerations, although not featured by methodological and statistical procedures, outline the importance of an important trademark issue, i.e. which of the three aspects is in the core to the answer of dilemma on the utilization of trademarks and the and the product description: trademarks as key functional element of the product; descriptive or generic character of trademarks referring to the product; and subconscious view of consumers.<sup>246</sup>

---

242 Diamond, S.S., Franklyn, D.J.(2014), Trademark Surveys : An Undulating Path, Texas Law Review, 92, 2029-2074.

243 Ibid.

244 Ibid.

245 Fromer,J.C, Lemley, M.A.(2014), The Audience in IP Infringement , Michigan Law Review, 112, 1252-1304.

246 Ibid.

The affirmation of empirical evidence in trademark dilution, was examined by Magid, Cox and Cox in 2006 in a study that involved women consumers (age 18-35).<sup>247</sup> The researchers have compared two trademarks: Victoria's Secret (VS) and Victor's Little Secret (VLS), in order to resolve possible impact on the strength of the VS trademark due to the effects of the VLS advertisements.<sup>248</sup> Furthermore, by using the Young and Rubicam 'Brand Asset Valuator' to assess the brand feasible value, Magid, Cox and Cox have utilized VLS advertisements and promotional materials as stimuli for the consumers, for the purpose of testing the attitudes of the subjects concerning: differentiation of the brand from the brands within the identical merchandise group; relevance which shows what does the trademark mean to the consumers; esteem, or in other words the extent of consideration of the brand by consumers compared to other brands in the same product category; and knowledge- what is the meaning of the name of the brand for consumers.<sup>249</sup> It is certain that this research represents a step forward to the analysis of the issue of trademarks perception, specially concerning the issue of similarity to earlier (prior) registered trademarks.

Another research, focusing on consumers' purchasing decisions, was the one conducted by Agarwal and Mazumder in 2013.<sup>250</sup> The research analyzed the effects of cognitive abilities on two examples of consumer financial decisions. The first example features the most favorable use of credit cards for expediency transactions after a balance transfer and the second involves a financial mistake on a home equity loan application. The authors have justly concluded that "consumers with higher overall test scores, and specifically those with higher math scores, are substantially less likely to make a financial mistake. These mistakes are generally not associated with non-math test scores". Although not related to intellectual property, this research is significant since it implements a special cognitive skills test, as a tool for measurement of the link of the ability to process information and the purchasing decision and thus contributes to the empirical evidence.

As previously mentioned, in 2003 Liefeld,<sup>251</sup> has reaffirmed Simonson view on the classification on survey research methods for estimating the likelihood of consumer confusion

---

<sup>247</sup> Manning Magid, J., Cox, A.D., Cox, S.D. (2006), Quantifying Brand Image: Empirical Evidence of Trademark Dilution, *American Business Law Journal*, 43 (1), p.1-42.

<sup>248</sup> Ibid.

<sup>249</sup> Ibid.

<sup>250</sup> Liefeld, J. (2003). How Surveys Overestimate the Likelihood of Consumer Confusion. *Trademark Reporter*, 93, 939-963.

<sup>251</sup> Ibid.

have been divided into four groups: 1) Top of Mind: the junior product is shown to the subjects and then they answer the question "What is the first thing that comes to your mind when looking at this in which respondents are shown." If respondents do not mention the name of a company, they are asked directly which company comes to mind; 2) Company Identification: the subjects answer the question "Who do you think puts out this brand?", by showing them the junior product; 3) Forced choice: the question is "Are these products put out by the same or different companies?" when the respondent is shown the senior and junior products side by side and asked; and 4) Simulated Choice: laboratory experiments are designed to simulate consumer choice at the point of purchase and consumers are asked to explain their choices.<sup>252</sup> Among these, the Simulated choice method is preferred by Simonson.<sup>253</sup> After conducting several experiments, Liefeld has proven that *"By accepting and giving weight to survey overestimates of the likelihood of confusion produced by Company Identification and Company Identification-Forced Choice types of questions, the courts are facilitating the use of trademark law by large companies with well-known brands to reduce competition and create monopolies, through judicial process rather than honest competition in the marketplace."*<sup>254</sup>

Having in mind that the results of this research are obtained only on few measurable data, it can be considered that the above research has a value more of presumption, rather than a conclusion.

Another attempt for consideration for the significance of the trademark strength is provided by Swann in 2006.<sup>255</sup> After emphasizing that *"trademark lawyers spend a lifetime studying trademark"* and that *"no area of law merits an interdisciplinary approach more than trademark law"*, Swann outlines the necessity for courts to introduce modes for assessing trademark strength in order to avoid distortions. As an empirical contribution for this aim, he proposes utilization of the schemas as structures connected with trademark. He provides an example for the Nike trademark schema, developed by Peter and Olson in 2005,<sup>256</sup> composed of numerous elements.

Additionally, Swann offers a classification of the strong brands benefits, namely: benefits for consumers (reduced international search costs, reduced risks, prices, innovation

---

<sup>252</sup> Simonson, I. (1993): The Effect of Survey Methods on Likelihood of Confusion Estimates: Conceptual Analysis and Empirical Test, Trademark Reporter, 83, 364, 366-73.

<sup>253</sup> Ibidem.

<sup>254</sup> Liefeld, J. (2003). How Surveys Overestimate the Likelihood of Consumer Confusion. Trademark Reporter, 93, p.963.

<sup>255</sup> Swann, J.B. (2006). An Interdisciplinary Approach to Brand Strength. Trademark Reporter, 96, 943-976.

<sup>256</sup> Peter, J.P., & Olson, J.C.(2010). Consumer Behavior and Marketing Strategy. New York: McGraw-Hill Irwin, p.55.

and quality, emotional and self-expressive needs, value propositions); benefits to the owners of the brands (consumer mind share, value premiums, enhanced advertising, channel power, increased sales and brand extensions) and benefits of an interdisciplinary analysis.<sup>257</sup>

In 2001, Jacoby has made a contribution for the American trademark litigation through the attempt for an improved explanation of the Sections 43(a) and 43 (c) of the Lanham Act, referring to false and misleading advertising and trademark dilution respectively.<sup>258</sup> Jacoby particularly raises the following issues: 1) storage of knowledge regarding products, brands and companies in memory; 2) the retrieval process of known things; and 3) the relationship between the information stored in the memory and the process of perceiving, interpretation and giving meaning to the information from the outside world.

In one of the summaries of his approach, he states that „Before a consumer can make sense out of what is "out there" (for instance, a product name, a product package, an advertising claim), she needs to draw on and use information she already has in her mind. How she interprets (and misinterprets) the things she experiences is fundamentally influenced, and often entirely determined, by her prior knowledge and experiences, " thus in the core of Jacoby's concept are the cognitive networks, composed of nodes (elements of information) and links (mental association) between nodes.<sup>259</sup> He furthermore illustrates this approach with the situation where consumers (National Football League fans, i.e. „Green Bay Packers“ team fans) and their behavior during shopping: when come to football replica garments, they mostly focus only to few of the product features.

In 2009, Iguchi, Abe, Misawa, Kimura & Daido have proposed an alternative to manual examination of trademark similarity in terms of trademark applications put forward to registration, compared to prior existing registered trademarks.<sup>260</sup> Arguing that manual trademark examination demands time, money, human resources, the authors have suggested a more rational technique of recognizing grouping patterns in design trademarks based on Gestalt psychology, with the aim of improving the accuracy of systems that recover alike

---

<sup>257</sup> Ibid.

<sup>258</sup> Jacoby, J. (2001). The Psychological Foundations of Trademark Law: Secondary Meaning, Genericism, Fame, Confusion and Dilution. *Trademark Reporter*, 91, 1013-1071.

<sup>259</sup> Ibid.

<sup>260</sup> Iguchi, H., Abe, K., Misawa, T., Kimura, H. & Daido, Y. (2009). Recognition of Grouping Patterns in Trademarks Based on Gestalt Psychology. *Electronic and Communications in Japan*, 92 (10), 844-853.

trademarks: the model includes three categories “proximity,” “shape similarity,” “closure,” and “good continuation.”<sup>261</sup>

In 2012, McKenna has reaffirmed his position on the substance of consumer decision and autonomy and the consumer decision-making theory in trademark law, particularly through investigating the limits on types of actionable confusion (sponsorship/affiliation, initial interest confusion, post-sale confusion and dilution), as well as the ramifications in likelihood of confusion analysis and defenses and remedies.<sup>262</sup> These elements have been generally reviewed from the scope of analysis of the jurisprudence, with a justified adequate conclusion that:

*“Courts for too long have been convinced that the world of search costs. This is the wrong goal because many search costs are irrelevant to consumers and some search costs even increase consumer welfare. Focusing on search costs has had serious negative effects on trademark doctrine: courts accepted virtually any argument sounding in consumer terms, and the result has been nearly unbridled expansion. It is time for courts to put consumer decision making back at the centre of their analysis and to start treating consumers like they are capable of processing non-deceptive information. Doing so would allow them to identify reasonable boundaries on trademark rights before they become precisely the “rights in gross” courts have long insisted they are not. This project is long overdue.”<sup>263</sup>*

Hence, one of the main aspects of McKenna’s outlook is that courts be supposed to treat consumers as crucial, independent and autonomous, “exogenous” to the trademark system in a sense that consumers use trademarks due to the information that trademark provide. Despite the fact that this study is using exemplificative jurisprudence devoid of quantitative methods approach, it has a strong input for the doctrinal consequences. Thus, this study is pertinent to the cluster of studies that situate the consumers in the central investigative position

---

<sup>261</sup> Ibid.

<sup>262</sup> McKenna, M.P. (2012). A Consumer Decision-Making Theory of Trademark Law. Virginia Law Review, 98 (3), 67-141.

<sup>263</sup> Ibid.



and seek out for adequate response of trademark law theory. In that way, to some extent this study has a similar approach to our research.

Also in 2012, Assaf has brought to attention the contradiction of the legal approach when it comes to trademarks, since from one side usually it tends to neglect consumers' irrational thinking, but from another side, when it comes to famous brands protection, "modern trademark law essentially recognizes the magical dimension of brands as an entirely real and valuable asset, subject to private property and legal protection".<sup>264</sup> Her approach is demonstrated with the concept of "magical thinking in trademark law," illustrating the position of consumer and the response of trademark law as a choice between the views of Alice ("one can't believe in impossible things") and the Queen ("one can believe impossible things").<sup>265</sup> Hence, Assaf in this manner affirms the position that the beliefs should not be taken into account and that trademark law should mostly rely on the pure informational function of trademarks.<sup>266</sup>

Meng and Ma in 2014 have analyzed the semiotic and linguistic features in a trademark dispute case, as an endeavor for applying forensic linguistics in trademark law.<sup>267</sup> The authors have argued for implementation of cognitive analysis principles during potential reforms of trademark law in China, as a way of successful resolution of disputes, since Chinese trademark practice faces a tendency to "build wrong perceptions between their brands and some famous people, and therefore, cause consumers' confusion and mistakes".<sup>268</sup> In support of this assertion the authors have analyzed a dispute of a transliterated name (QioDan) as trademark used by a Chinese company, i.e. the case of Michael Jordan vs. Qiaodan Sports.<sup>269</sup>

Bunker in 2015 has studied the nominative fair use in trademark law and freedom of expression, through analysis of the jurisprudence.<sup>270</sup> Concerning the fair use, he affirmed the

---

<sup>264</sup> Assaf, K. (2012). Magical Thinking in Trademark Law. *Law & Social Inquiry- Journal of the American Bar Association*, 37 (3), 595-626.

<sup>265</sup> Ibid.

<sup>266</sup> Ibid.

<sup>267</sup> Meng, C. & Ma, Q. (2014). The Analysis of Trademark Disputes in China-A Cognitive Perspective. *The Fourth International Conference On Law, Language and Discourse (LLD)*, Xi'an, China, 2014, (pp.103-1080, Marietta, Georgia: American Scholars Press.

<sup>268</sup> Ibidem.

<sup>269</sup> On December 7<sup>th</sup>, 2016, The Supreme Court of China has ruled in favor of Michael Jordan. For more on this dispute see: Young, L.W. (2016). Understanding Michael Jordan v. Qiaodan : Historical Anomaly or Systemic Failure to Protect Chinese Consumers? *Trademark Reporter*, 106 (5), 883-914.

<sup>270</sup> Bunker, M.D. (2015). Mired in Confusion: Nominative Fair Use in Trademark Law and Freedom of Expression, *Communication Law and Policy*, 20(3), 191-212.

utilization of the “Rogers test” as (test utilized in the case *Rogers v. Grimaldi*, 875 F.2d 994 (2d Cir. 1989)).<sup>271</sup> The test includes several components that the court looks for when determining first amendment relevance for artistic works, namely: whether or not the title of the work has some artistic relevance to the underlying work; and that the title is not explicitly misleading as to the source or content of the work.<sup>272</sup> Thus, Bunker concludes that “the Rogers test is more speech protective, is more conducive to earlier, less fact-intensive adjudications, and more equitable to all speakers who are engaging in noncommercial speech”.

\* \* \*

From the available preceding research , i.e. from the material and documentation on the studies, obtained and presented above, it can be noted that there is a need of further enhanced approach to the overall treatment of the problem of relevance of consumers’ cognitive abilities and conative features for trademark law science and jurisprudence. It is also evident that the following circumstances are evident for this situation:

Firstly, the presented preceding research indicates that the above mentioned studies only in certain degree demonstrate the significance of consumers’ cognitive and conative characteristics of consumers for the research on quality of trademarks, which burdens the disclosure of the factors;

Secondly, there is a moderate number of up-to-date research in which quantitative methods have been applied concerning cognitive and conative variables. Even more, in those researches, they are mostly characterized by application of univariate quantitative methods, while the application of multivariate statistical methods in trademark law research is quite rare.

Thirdly, the current research in the area of trademark characteristics are conducted to a relatively low number of entities, with a small number of variables and mainly only in the framework of few trademark issues.

---

<sup>271</sup> In this case *Ginger Rogers* as plaintiff has claimed that the producers and distributors of the Fellini 1986 movie “*Ginger and Fred*,” have created impression to the viewers that the movie referred to her and her sponsorship, endorsements, or violated the Lanham Act in terms of trademark rights, right of publicity, and “false light” defamation ( Lanham Act under 15 U.S.C. § 1125(a) ).

<sup>272</sup> For the analysis of the Roger test, see: Wright, D.J. (2013). Explicitly Explicit: The Rogers Test and the Ninth Circuit. *Journal of Intellectual Property Law*, 21(1), 193-221.

Not going further into elaborating of the characteristics and the analysis of the available preceding research, it can be noted that since the studies are in their initial phase, it is not possible to derive general conclusions for the determination of the regularities and tendencies of the relations between the quality of trademarks and cognitive abilities and conative characteristics of consumers, which justifies once more the indispensability of our research.

## **4. AIM, SCOPE AND HYPOTHESES OF THE RESEARCH**

On the basis of the results of researches accomplished in contemporary science and the author's considerations as well as the possibilities for determination of new relations that would contribute for further acquiring of scientific knowledge regarding the problem, the following aim of the research is established:

**To determine the dependence of trademarks' characteristics (visual perceptibility, graphical representation, distinctiveness, non-genericness etc.), on general and specific types of cognitive abilities and conative characteristics of consumers from the general population, by application of numerous tests.**

### ***4.1. Hypotheses***

On the basis of the research aim and the results of the up-to-date researches, following hypotheses were established:

- The cognitive and conative variables will have statistically significant relation with the results of the TM test (trademark quality).
- The higher degree of cognitive abilities of consumers will influence on successful determination of the trademark characteristics.
- The conative characteristics of consumers will have no influence on successful recognition of trademarks characteristics.

## ***4.2. Theoretic and Practical Significance of the Research***

On the basis of acceptance or rejection of the above hypotheses, it is feasible to determine the possibility for appropriate theoretic and practical significance and generalization of the results.

Within the numerous possibilities, the following components of the significance could be outlined:

- Contribution for conception of projection and realization of subsequent research on similar topics related to trademarks. This is an outcome of the indispensability for increased intensive interdisciplinary research in contemporary intellectual property law science regarding trademarks and cognitive and conative variables.
- Input to the scientific and professional public, in respect to making the research results and findings available to the respective public concerned by intellectual property rights.
- Positive implication on the efforts for relevance of scientific results in the process of drafting of national legislation and international legal instruments regulating trademarks.
- Application of the research outcomes (including consumer considerations) in trademark examination procedures. This will stimulate more exact, impartial and unprejudiced approach by trademarks examiners in intellectual property offices while reviewing the grounds for acceptance or refusal of trademarks registration.
- Impact on trademarks litigation and dispute resolution. Courts, attorneys at laws, administrative and alternative dispute resolution entities can establish models for independent quantitative and qualitative valid evidence.
- Relevance for the trademark component in the national and international intellectual property strategies for institutional reforms and programs.

- Significance of the consumers position in the enforcement activities. Consumers considerations of trademarks of products and services could play an important role for decreasing of infringement cases.
- Importance of the research for the promotion of the competitiveness and economic development. The focus on consumers cognitive abilities and conative characteristics would enhance creation of high quality trademarks by companies, proper valuation of trademarks as intangible assets, particularly by small and medium enterprises.

Considering the sample dimension (206 subjects) and the type of measurement instruments (TM-1 battery of tests, as a represent of numerous trademark characteristics and the cognitive and conative tests), the degree of theoretic and practical possibilities generalization will satisfy the necessities of trademark functions in various countries and regions.

## **5. RESEARCH METHODS**

### **5.1. Sample of Subjects**

The research was realized on a sample of 206 randomly selected subjects (consumers) from the Republic of Macedonia.<sup>273</sup>

### **5.2. Variables' Sample**

#### 5.2.1. Trademarks' assessment tests

The subjects were tested with a specially prepared battery of tests for evaluation of the quality of trademarks (hereinafter: TM-1). The tests were constructed on the basis of commonly used trademark characteristics in the contemporary researches and practices, international conventions and agreements and national legislations (grounds for registration and refusal), namely:

- Paris Convention for the Protection of Industrial Property;
- Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codification) (OJ 2017 L 154, 8);
- Commission Implementing Regulation of 18.5.2017 laying down detailed rules for implementing certain provisions of Council Regulation (EC) No 207/2009 on the European Union trade mark (C (2017)3224);
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS);
- Legislations of :Macedonia, France, Germany, Albania, Mexico, Norway, Sweden, France, USA etc.;

---

<sup>273</sup> The subjects were from both genders, at the age of 18 and above, from various study fields, professions, different educational background, ethnicity or religious beliefs. Age, gender, social, cultural, religious and other characteristics of the consumers were not in the focus of this this research. Future researches would focus on the relations of these variables with the quality of trademarks.

- Documents Prepared by the Secretariat of WIPO on the Grounds for Refusal of All Types of Marks (SCT 16/2, SCT/23/2 );

-ICANN Rules for Uniform Domain Name Dispute Resolution Policy; and

-other documents.

The tests contained several groups of trademarks' characteristics, classified in several categories, namely:

-visual perceptibility;

-graphical representation;

-distinctiveness;

-non-genericness;

-non-descriptiveness (issues of: type, quality, quantity, purpose, value, origin, time of production and other features of goods and services);

-accordance with public order;

-accordance with morality;

-non-deceptiveness;

-bona fide principle;

-elements of emblems and/or symbols of states;

-novelty (availability) /relation to prior trademarks;

-relation to geographical indications;

-links to copyrights;

-reference to personality rights;

-relation to other industrial property rights.



The TM-1 questionnaire contained tests (variables) which are registered and refused trademarks, presented in pictures and words, that were evaluated by the subjects through appropriate questions.

In other words, the consumers evaluated the quality of registered and refused trademarks for different types of products and services, i.e. from classes 3, 5, 7, 8, 9, 11, 12, 14, 16, 21, 23, 25, 28, 29, 30, 31, 32, 33, 34, 35, 38, 39, 41, 42 and 44 of the International Classification of Goods and Services under the Nice Agreement. The test also contained questions on other issues relevant for trademark law in the digital environment.

Following questions were used for evaluation of the appropriate trademarks characteristics:

1.a texture (trademark EUTM 000811281); 2. motion mark (EUTM003429909); 3. The smell of fresh cut grass (EUTM 000428870); 4. Nokia ring tone (EUTM 001040955); 5.Coca-Cola 3-D trademark (EUTM 011604964); 6. Combination of two colors trademark; 7. HP INVENT (EUTM 001506823); 8.МАКПЕТРОЛ; 9. JUST DO IT (EUTM 000514984); 10. Magenta color (EUTM 000212787); 11. Lilac/violet color (EUTM 000031336); 12.Johnson & Johnson (EUTM 003474764); 13. YARIS; 14. GILLETTE (EUTM 011319613) ; 15.ADIDAS; 16.JOHNIE WALKER; 17.GOOGLE (EUTM 0881006); 18.ТИКБЕИИ; 19. FOLIC ACID; 20.ПЛАСТЕЛИИИ; 21.No 1 in Air Conditioning; 22. 1Kg Gomitas Gummies; 23. STRES DEPRES; 24. NICE PRICE; 25. KAFE MINAS МЕКСИКО; 26. COSECHA 54; 27.Multi Utility Server; 28. TEFLON; 29. THERMOS; 30. BILLY BOY; 31. “EXTASY IF YOU TASTE IT, YOU’LL BE ADDICT“; 32.MEKKA; 33. TAXI Extra; 34.FCUK (EUTM 000743112); 35.100% Pineapple; 36. Krassi majonez danski; 37.boutique Alexandar; 38. sign comprised of a cross; 39. SWEDMILK; 40. 3-D trademark (shape of a watch); 41.LADY DI (EUTM 000644401); 42. Nestte; 43. MUSTANG ENERGY DRINK/Red Bull Energy Drink ; 44. BÜHLER; 45.COCA-COLA (EUTM 015962962)/COCKTA (EUTM 0227215); 46.Intellicom; 47.PERIN/PERSIL; 48.SABEL/PUMA; 49.LADA/LIFAN; 50.IKEA/ИКЕЈА; 51. PICASSO(EUTM 001334036)/ PALOMA PICASSO (EUTM 000409649); 52. BONITO/MAGI; 53.LIVIA/NIVEA; 54.Zottarella (EUTM 0552720)/ Dukatela; 55. Davidoff/Durfee; 56. drawing/previous design (Case 02-367;Swedish Court of Patent Appeals);57. Marco Macaroni; 58. MAJKA TEREZA ; 59. www.amazon.com/www.amazondeveloper.org; 60. UDRP rules; 61. Rules for domain names in Macedonia; 62-66. Facebook issues; 67. Peer-to-peer file sharing; 68. Frequency of Google

use; 69. VIP; 70.T-Home; 71. ONE; 72. Blackberry; 73. iPhone; 74. LG; 75. MOTOROLA; 76. NOKIA; 77. SAMSUNG; 78. SIEMENS; 79. Sony Ericsson.

The questions typically have five possible answers (Likert-type scale) regarding the statement provided (range 1-5) (See Appendix A).

Specifically, the tests (variables) and their appropriate questions are:

1. **TXTR- test for assessment of distinctiveness (signs (not)capable of distinguishing goods and services) (visual texture)**

*Question:*

*If found as a mark on a product, this drawing will enable me to identify the product.*



Trademark used for question construction:

EUTM file (Trade mark without text) 000811281 (Application Refused).

Information available at:

<https://euipo.europa.eu/eSearch/#details/trademarks/000811281>

Owner: AGC Glass Europe

Substantive law context for construction of the question:

- Article 3 of the Regulation(EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codification) (OJ 2017 L 154, 8) (hereinafter EUTMR (EU) 20017/1001):

*“An EU trade mark may consist of any signs, in particular words, including personal names, or designs, letters, numerals, colours, the shape of goods or of the packaging of goods, or sounds, provided that such signs are capable of:*  
*(a) distinguishing the goods or services of one undertaking from those of other undertakings; and*

*(b) being represented on the Register of European Union trade marks ('the Register'), in a manner which enables the competent authorities and the public to determine the clear and precise subject matter of the protection afforded to its proprietor."*

-Article 7 (a) (b) of the Regulation(EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codification) (OJ 2017 L 154, 8):

*"Absolute grounds for refusal*

*1. The following shall not be registered:*

*(a) signs which do not conform to the requirements of Article 4;*

*(b) trade marks which are devoid of any distinctive character."*

-Article 3 (1) & 3(3) (b), Commission Implementing Regulation of 18.5.2017 laying down detailed rules for implementing certain provisions of Council Regulation (EC) No 207/2009 on the European Union trade mark (hereinafter EUTMIR (C (2017)3224):

*".... Representation of the trade mark*

*1. The trade mark shall be represented in any appropriate form using generally available technology, as long as it can be reproduced on the register in a clear, precise, self-contained, easily accessible, intelligible, durable and objective manner so as to enable the competent authorities and the public to determine with clarity and precision the subject-matter of the protection afforded to its proprietor.*

*....*

*3. Where the application concerns any of the trade mark types listed in points (a) to (j), it shall contain an indication to that effect. Without prejudice to paragraphs 1 or 2, the type of the trade mark and its representation shall accord with each other as follows: ...*

*(b) in the case of a trade mark where non-standard characters, stylisation or layout, or a graphic feature or a colour are used (figurative mark), including marks that consist exclusively of figurative elements or of a combination of verbal and figurative elements, the mark shall be represented by submitting a reproduction of the sign showing all its elements and, where applicable, its colours."*

-Article 15 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS):

*Protectable Subject Matter*

*1. Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks.*

*Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible.*

2. **SEC** - test for assessment of distinctiveness (signs (not)capable of distinguishing goods and services) sequence (motion mark).

Question/Statement:

**-I can identify the product or service if I see these images as sequences:**



The trademark that was used for construction of the question is the EUTM 003429909 (Trademark without text), owned by the Nokia Corporation. Details on the trademark are available at:

<https://euipo.europa.eu/eSearch/#details/trademarks/003429909>

Following substantive law provisions are relevant for the construction of the SEC variable:

-Article 3 (h) of the EUTMIR (C (2017)3224):

*(h) in the case of a trade mark consisting of, or extending to, a movement or a change in the position of the elements of the mark (motion mark), the mark shall be represented by submitting a video file or by a series of sequential still images showing the movement or change of position. Where still images are used, they may be numbered or accompanied by a description explaining the sequence.*

### **3. AROMA-test for assessment of olfactory marks.**

Question/Statement:

**-I can recognize the scent of fresh cut grass if applied to a product.**

The trademark used for question creation and the construction of the AROMA test is EUTM 000428870 THE SMELL OF FRESH CUT GRASS (Registration expired), whose owner was: Vennootschap onder Firma Senta Aromatic Marketing, located in the Netherlands. The information for this trademark is available at: <https://euipo.europa.eu/eSearch/#details/trademarks/000428870>

As far as the substantive law in context of AROMA, following provisions are of importance: Article 4 & Article 7 EUTMR (EU) 2017/1001; Article 15 TRIPS.

### **4.RING-test for assessment of sound marks**

Question/Statement:

**-I can identify from the mobile phone product with the ringtone that I am hearing.**

The respondents had to answer the question after hearing the Nokia ringtone that was played to the respondents). The sound mark that was used for construction of the questions is EUTM 001040955 (Trade mark without text), owned by the Nokia Corporation, available in EUIPO's database:

<https://euipo.europa.eu/eSearch/#details/trademarks/001040955>

The relevant substantive law in the context of the RING variable includes Article 4 & Article 7 EUTMR (EU) 2017/1001; Article 15 TRIPS, as well as Article 3 (g) of the EUTMIR (C (2017)3224:

*“...(g) in the case of a trade mark consisting exclusively of a sound or combination of sounds (sound mark), the mark shall be represented by submitting an audio file reproducing the sound or by an accurate representation of the sound in musical notation”.*

## **5. THR-test for assessment of three-dimensional trademarks.**

Question/Statement:

**-I know which drink is affiliated to this bottle.**



The trademark used for creation of the variable is EUTM 011604964 (COCA-COLA), 3-D trademark, owned by the Coca-Cola Company, available in the e-search plus EUIPO's data base: <https://euipo.europa.eu/eSearch/#details/trademarks/011604964>

The relevant substantive law in context:

-Article 4 & Article 7 EUTMR (EU) 20017/1001; Article 15 TRIPS, as well as Article 3 (c) of EUTMIR (C (2017)3224):

*“(c) in the case of a trade mark consisting of, or extending to, a three-dimensional shape, including containers, packaging, the product itself or their appearance (shape mark), the mark shall be represented by submitting either a graphic reproduction of the shape, including computer-generated imaging, or a photographic reproduction. The graphic or photographic reproduction may contain different views. Where the representation is not provided electronically, it may contain up to six different views”*

## **6. TWC test for assessment of combination of two colors**

Question/Statement:

- **The combination of colors could assist me in recognizing a certain product or service to which the sign is placed/related.**



This test was constructed having in mind the registered trademark in Madagascar. Information on the trademark is available.<sup>274</sup>

Provisions on color combination, relevant for this test:

- Article 15 TRIPS;
- Analogous provisions in EU legislation on color marks:

Article 3 (f) of the EUTMIR (C (2017)3224):

*“... (f) in the case of a colour mark, ...  
(ii) where the trade mark consists exclusively of a combination of colours without contours, the mark shall be represented by submitting a reproduction that shows the systematic arrangement of the colour combination in a uniform and predetermined manner and an indication of those colours by reference to a generally, recognised color code. A description detailing the systematic arrangement of the colours may also be added;”*

#### **7. HPCOM - test for assessment of figurative marks (combination of letters and figurative elements)**

Question/Statement:

---

<sup>274</sup> WIPO Standing Committee On The Law Of Trademarks, Industrial Designs And Geographical Indications, Sixteenth Session, Geneva, November 13 to 17, 2006, New Types Of Marks, SCT/16/2, Annex, page 2.

**-The following combination of characters and graphic elements indicate the product to me.**



Trademark used for construction of the question:

-HP INVENT EUTM 001506823, owned by HP Hewlett Packard Group LLC. Details available at: <https://euipo.europa.eu/eSearch/#details/trademarks/001506823>

Substantive Law:

-Article 4 & Article 7 EUTMR (EU) 20017/1001; Article 15 TRIPS;

-Article 3 (b) of the EUTMIR (C (2017)3224):

*“(b) in the case of a trade mark where non-standard characters, stylisation or layout, or a graphic feature or a colour are used (figurative mark), including marks that consist exclusively of figurative elements or of a combination of verbal and figurative elements, the mark shall be represented by submitting a reproduction of the sign showing all its elements and, where applicable, its colours.”*

## **8. MPT-test for assessment of figurative marks (figurative elements)**

Question/Statement:

**-Please write down the name of the company to which this sign belongs.**



Trademark used for the variable: MAKIIETPOJI 199300700, owned by MAKPETROL AD Skopje. Registered at: State Office of Industrial Property,



Macedonia. Information available at:

<http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?appnr=199300700>

Substantive law related to the test:

-Article 175, Law on Industrial Property (Official Gazette of the Republic of Macedonia No. 21/2009 & 24/11)

*“(1) A trademark shall protect a sign which may be represented graphically and which is suitable for distinguishing goods or services of one undertaking from those of other undertakings.*

*(2) Trademark shall protect signs suitable for distinguishing, in particular: words, letters, numerals, pictures, drawings, combinations of colors, three-dimensional forms, including shapes of goods or their packaging, as well as combinations of all of the above-mentioned signs.*

*(3) The words and letters referred to in paragraph (2) of this Article may be written in any language and alphabet.*

- Article 4 & Article 7 EUTMR (EU) 20017/1001;

-Article 15 TRIPS;

-Article 3 (b) of the EUTMIR (C (2017)3224).

## **9. SNIKE-test for assessment of word marks (slogans)**

Question/Statement:

*-Please write down the name of the company of which these words remind you:*

**JUST DO IT**

The trademark included in the test is the EUTM 000514984 (JUST DO IT), owned by NIKE Innovate C.V. Information on the trademark:

<https://euipo.europa.eu/eSearch/#details/trademarks/000514984>

Concerning the relevant legislation provisions, following are of importance:

- Article 4 & Article 7 EUTMR (EU) 20017/1001;
- Article 15 TRIPS;
- Article 3 (a) of the EUTMIR (C (2017)3224):

*“(a) in the case of a trade mark consisting exclusively of words or letters, numerals, other standard typographic characters or a combination thereof (word mark), the mark shall be represented by submitting a reproduction of the sign in standard script and layout, without any graphic feature or colour. “*

#### 10. THOME-test for assessment of **single color as trademark (magenta color)**

Question/Statement:

*-Which company or product/service does this color remind you of ? Please write down the name of the company or product/service.*



Trademark used for variable construction: EUTM 000212787 (Trade mark without text), owned by Deutsche Telekom AG, information available at:  
<https://euipo.europa.eu/eSearch/#details/trademarks/000212787>.

The test is in the context of the following substantive law provisions:

- Article 4 & Article 7 EUTMR (EU) 20017/1001;
- Article 15 TRIPS;
- Article 3 (f) (i) of the EUTMIR (C (2017)3224):

*“(f) in the case of a colour mark,  
(i) where the trade mark consists exclusively of a single colour without*

*contours, the mark shall be represented by submitting a reproduction of the colour and an indication of that colour by reference to a generally recognised colour code.”*

#### **11. LLV-test for assessment of single color as trademark (lilac/violet)**



Question/Statement:

*-This color reminds me to one product only.*

The test was made on the basis of the following trademark:

EUTM 000031336 (Trade mark without text), owner:

Details at: <https://euipo.europa.eu/eSearch/#details/trademarks/000031336>

The test is in the context of the following substantive law provisions:

- Article 4 & Article 7 EUTMR (EU) 2017/1001;
- Article 15 TRIPS;
- Article 3 (f) (i) of the EUTMIR (C (2017)3224):

*“(f) in the case of a colour mark,  
(i) where the trade mark consists exclusively of a single colour without contours, the mark shall be represented by submitting a reproduction of the colour and an indication of that colour by reference to a generally recognised colour code.”*

#### **12. JHNS -tests for assessment of stylized letters**

Question/Statement:

**The stylisation of the letters enable to identify the product easily.**



Trademark used for construction of the test:

EUTM 003474764 Johnson & Johnson, owned by: Johnson & Johnson

Information at:

<https://euipo.europa.eu/eSearch/#details/trademarks/003474764>

**13. YARIS-tests for assessment of stylized letters (differentiation of product from the other products of same producer)**

Question/Statement:

**-I can easily make a difference between the product with the following sign from other products from the same company**

Trademarks used for question construction:

YARIS (Stylized letters) owned by: TOYOTA JIDOSHA KABUSHIKI KAISHA (TAMBIEN COMERCIALIZANDO COMO TOYOTA MOTOR CORPORATION)

Information for the trademarks:

<https://www.tmdn.org/tmview/get-detail?st13=ES500000002345159>

<https://euipo.europa.eu/eSearch/#details/trademarks/000726026>

**14. GLT-test for assessment of stylized letters (differentiation of product from the other products of other producers)**

Question/Statement:

**-I can easily make a difference between the product with the following sign from other products from other producers.**

Trademark utilized for the construction of the test: EUTM 011319613 GILLETTE, owned by: The Gillette Company LLC.

Information for the trademark:

<https://euipo.europa.eu/eSearch/#details/trademarks/011319613>

Substantive law in context for the tests 12,13 & 14:

- Article 4 & Article 7 EUTMR (EU) 2017/1001;

- Article 15 TRIPS;

- Article 3 (b) of the EUTMIR (C (2017)3224):

*b) in the case of a trade mark where non-standard characters, stylisation or layout, or a graphic feature or a colour are used (figurative mark), including marks that consist exclusively of figurative elements or of a combination of verbal and figurative elements, the mark shall be represented by submitting a reproduction of the sign showing all its elements and, where applicable, its colours;*

**15. SADID- test for assessment of combination of figurative elements and letters (differentiation of product from the other products of other producers)**

Question/Statement:

**-I can easily make a difference between the product with the following sign from other products from other producers.**



Trademark used for question construction:

Trademark no. 1163997, owned by adidas AG, registered in the German Patent and Trademark Office, information available at:

<https://register.dpma.de/DPMAregister/marke/register/1163997/DE?lang=en>

Relevant EU and national law in context:

- Article 4 & Article 7 EUTMR (EU) 2017/1001;

- Article 15 TRIPS;

- Article 3 (b) of the EUTMIR (C (2017)3224)

-Act on the Protection of Trade Marks and other Symbols of 25 October 1994 (Federal Law Gazette [BGBl.] Part I p. 3082, as last amended by Art. 3 of the Act of 19 October 2013, Federal Law Gazette (Bundesgesetzblatt) Part I p. 3830.<sup>275</sup>

*"Section 3*

*Signs eligible for protection as trade marks*

*(1) All signs, particularly words including personal names, designs, letters, numerals, sound marks, three-dimensional designs, the shape of goods or of their packaging, as well as other wrapping, including colours and colour combinations, may be protected as trade marks if they are capable of distinguishing the goods or services of one enterprise from those of other enterprises.*

*(2) Signs consisting exclusively of a shape*

- 1. which results from the nature of the goods themselves,*
  - 2. which is necessary to obtain a technical result, or*
  - 3. which gives substantial value to the goods*
- shall not be amenable to protection as a trade mark."*

**16. JWALK-test for assessment of figurative mark (association to particular product)**

-Question/Statement:

**This drawing reminds me on a specific product.**



Trademarks used for the question: JOHNNIE WALKER (figure in walking), owned by DIAGEO BRANDS B.V, NL. Registered in the Albanian industrial property office, no. 2004000059. More info available at:

<https://www.tmdn.org/tmview/get-detail?st13=AL502004000000059>

In the context of this question, following provisions are appropriate:

---

<sup>275</sup> The text of the Act is available at: [http://www.gesetze-im-internet.de/englisch\\_markeng/englisch\\_markeng.html#p0020](http://www.gesetze-im-internet.de/englisch_markeng/englisch_markeng.html#p0020)

- Article 4 & Article 7 EUTMR (EU) 20017/1001;

- Article 15 TRIPS;

- Article 3 (b) of the EUTMIR (C (2017)3224)

-Industrial Property Law of Albania (Nr. 9947 dated 07.07.2008, as amended, No.10/2013,date 14.02.2013, No.55/2014, date 29.05.2014, No.17/2017, date 16.02.2017. ):<sup>276</sup>

*"Article 140*

*Signs that can constitute trademarks*

*A trademark may be any sign, in particular words, including personal names or designs, letters, numbers, colours, the form of goods or their packaging, or sounds, provided that those signs shall be capable:*

*a) of distinguishing the goods or services of a natural or legal person from those of another natural or legal person;*

*b) of being represented in the register in such a way, as to enable the competent authorities and the public to determine clearly and accurately the object of protection recognised to its owner"*

**17. GOOGLE-test for assessment of figurative marks (non-standard characters in color)**

Question/Statement:

-The colors in this word attract my attention.

---

<sup>276</sup> English version of the law available at: <http://www.dppm.gov.al/index1.php>



Trademark utilized for variable construction: EUTM 0881006 (GOOGLE), owned by Google Inc. More information at:

<https://euipo.europa.eu/eSearch/#details/trademarks/W00881006>

Relevant substantial law in context:

- Article 4 & Article 7 EUTMR (EU) 2017/1001;
- Article 15 TRIPS;
- Article 3 (b) of the EUTMIR (C (2017)3224)

### **18. TIKVES-test for assessment of trademarks in relation to geographical indications**

Question/Statement:

- This word indicates a specific product.

**ТИКВЕШ**

Trademark used for creation of the question:

- ТИКВЕШ, owned by VINARSKA VIZBA TIKVEŠ, AD Skopje, registered at the Macedonian State Office for Industrial Property, Registration number: 12683.

Information for the trademark:

<http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?appnr=200500409>

Substantial international, EU and national law in context:

- Paris Convention Article 6quinquies B (2)



*“They are devoid of any distinctive character, or consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, place of origin, of the goods, or the time of production, or have become customary in the current language or in the bona fide and established practices of the trade of the country where protection is claimed”*

-Art. 16 of the TRIPS Agreement:

*"The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical with or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In the case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of members making rights available on the basis of use."*

-Art. 24 of the TRIPS Agreement:

*“5. Where a trademark has been applied for or registered in good faith, or where rights to a trademark have been acquired through use in good faith either: (a) before the date of application of these provisions in that Member as defined in Part VI; or (b) before the geographical indication is protected in its country of origin; measures adopted to implement this Section shall not prejudice eligibility for or the validity of the registration of a trademark, or the right to use a trademark, on the basis that such a trademark is identical with, or similar to, a geographical indication.”*

- Article 7 (c) EUTMR (EU) 20017/1001:

Absolute grounds for refusal

1. *The following shall not be registered:*

*(a) signs which do not conform to the requirements of Article 4;*

*(b) trade marks which are devoid of any distinctive character;*

*(c) 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 or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service;*

-Law on Industrial Property (Official Gazette of the Republic of Macedonia No. 21/2009 & 24/11):

Article 232:

*“A geographical indication i.e. appellation of origin may not protect the product name which:*

*...(7) is identical or similar to the geographical name or trademark registered previously for identical or similar products, when there is probability to mislead the customer.”*

Article 177:

*“(1) A trademark shall not protect a sign:*

*...7. the appearance of which may create confusion in trade and mislead the average consumer particularly as to the geographical origin, kind, quality or any other characteristic of the goods or services;*

*8. which contains or consists of a geographic sign which serves to signify wines or other strong alcoholic drinks, if the reported sign refers to wines or alcoholic drinks which are not from that geographical area;*

Article 178:

*“..(5) A trademark shall not protect a sign which infringes earlier acquired rights of:*

*...3. the owner of an earlier industrial property right, if the subject matter of such right is identical with or similar to the published sign; ...”*

**19. FLA-test for assessment of trademarks' (non) descriptiveness (Description of kind of goods/ingredient)**

-Question/Statement:

**These words indicate the kind of goods and services.**

**FOLIC ACID**

The variable was constructed on the basis of a refused trademark (FOLIC ACID) by the Macedonian State Office for Industrial Property, Decision no. 10/6477/3 of 19.11.1999. The Decision reads *“the sign does not fulfill the conditions for recognition of trademark right. The application is not in accordance with the Law on Industrial Property which states that trademark cannot protect a sign which designates only the kind of the product, its purpose, weight, quantity, the name of the place, i.e. the geographical origin and which is common for designating goods or services. The sign “FOLIC ACID” can’t be accepted since it designates the kind of the product i.e. it represents generic term ...”*<sup>277</sup>

Law in context:

-Paris Convention Article 6quinquies(B)(2)

-Article 4 & Article 7 EUTMR (EU) 2017/1001; Article 15 TRIPS, as well as Article 3 (c) of EUTMIR (C (2017)3224).

-Law on Industrial Property (MKLIP) (Official Gazette of the Republic of Macedonia No. 21/2009 & 24/11), Article 177 (1), paragraph 4:

*“(1) A trademark shall not protect a sign:*

*..... 4. which indicates exclusively the kind of goods or services, their purpose, time or manner of production, geographical origin, quality, price, quantity or weight..”*

---

<sup>277</sup> For the content of the Decision see: Simjanovski, S. (2009). Trgovska marka, Apsolutni i relativni pričini za odbivanje na prijavata za pravoto na trgovska marka [Absolute and Relative Grounds for Refusal of Application for Trademark Right. In Macedonian]. Skopje: State Office of Industrial Property.

**20. PLST- test for assessment of trademarks’ (non) descriptiveness (description of kind of goods / transcription of genericized trademarks)**

Question/statement:

-This word reminds me of a type of product.

**ПЛАСТЕЛИН**

The test is constructed on the base of refused trademark application at the Macedonian State Office of Industrial Property.

The State Office of Industrial Property rejected the request, stating that “Пластелин [Plastelin]” is a generic term and “*serves to designate the kind of product and does not in any way differentiate the goods and services in trade, so nobody can have a monopoly right to it*” (Decision No. 10-3206/3, of August 20, 2001). Furthermore, the same act states that “*insignificant changes or deliberate mistakes in generic and descriptive terms cannot be considered as distinctive*”<sup>278</sup>

In fact in the word “Пластелин” is transcription in Cyrillic alphabet of the word “Plasteline”, considered generic term used for modeling clay in Macedonian language.<sup>279</sup>

In comparative trademark law, following registered trademarks are relevant in this context:

-Plastilina Jovi, EUTM 001769553, owned by JOVI S.A.

Information at: <https://euipo.europa.eu/eSearch/#details/trademarks/001769553>

-Plastilina, a trademark submitted on behalf of JOVI S.A., to the United States Patent and Trademark Office, used for Plastic modeling materials and compounds, application from 2007, abandoned in 2007.

More information at:

---

<sup>278</sup> Ibid.

<sup>279</sup> See: Digital Macedonian Dictionary (Accessed 28.08.2017), available at: <http://www.makedonski.info/search/пластелин>

[http://tsdr.uspto.gov/#caseNumber=77174532&caseType=SERIAL\\_NO&searchType=status](http://tsdr.uspto.gov/#caseNumber=77174532&caseType=SERIAL_NO&searchType=status)  
Search

-Plasticine, a trademark registered at the United States Patent and Trademark Office, used for Plastic modeling materials and compounds, registered in 1990, cancelled in 2001.

Information available at:

<https://www.tmdn.org/tmview/get-detail?st13=US500000073770962>

Applicable substantial law for the test:

-Paris Convention Article *6quinquies*(B)(2)

-Article 4 & Article 7 EUTMR (EU) 20017/1001;

-Article 15 TRIPS.

- MKLIP Article 177 (1), paragraph 4.

**21. AIRC-test for assessment of descriptiveness (kind of goods and services and quality of goods and services)**

Question/Statement:

-This slogan shows that the product has high quality.

*No 1 in Air Conditioning*

Trademark used for test construction:

The mark “No 1 in Air Conditioning” filed to the Macedonian State Office of Industrial Property (SOIP) , has been refused on the ground of lack of distinctiveness and also because it directs completely the kind of goods or services . The Office also has stated

that the expressions "No1" might be perceived by the public as an indicator of the quality of products and services, more specifically that they are of top quality.<sup>280</sup>

In its Decision, SOIP has concluded that: *"The Office cannot accept the sign as a trademark since it is not eligible for differentiation of the product, i.e. it is not distinctive. Namely, the word "Air Conditioning" designates the use of the product itself (air conditioning or conditioning devices), while the word no.1 designates highest quality which is contrary to the law. The statements that the slogan follows the registered trademark (FONKO) and has a function of clarification, explanation and recognizability are ungrounded....the slogan, in order to be protected as trademark, should be distinctive, notwithstanding if it is used in commerce in a combination with certain protected trademark"*.<sup>281</sup>

-Paris Convention Article 6quinquies(B)(2)

-Article 4 & Article 7 EUTMR (EU) 20017/1001;

- MKLIP Article 177 (1), paragraph 4.

## 22. ONERE-test for assessment of descriptiveness (quantity of goods and services)

-Question/Statement:

The sign indicates the product quantity.



The test was constructed on the basis of a refused trademark (shown above), submitted for registration before the Mexican Institute of Industrial Property.<sup>282</sup> The registration was not allowed, since the mark indicated the quantity of goods for which the mark was aimed

---

<sup>280</sup> WIPO (2010), Grounds for Refusal of All Types of Marks, Document Prepared by the Secretariat (SCT/23/2), Standing Committee on the Law on Trademarks, Industrial Designs and Geographical Indications, Twenty-Third Session, Geneva, June 30-July 2, 2010, p. 12.

<sup>281</sup> Decision No. 10-4441/5 of 09.07.2003, State Office of Industrial Property of the Republic of Macedonia.

<sup>282</sup> WIPO (2010), Grounds for Refusal of All Types of Marks, Document Prepared by the Secretariat (SCT/23/2), Standing Committee on the Law on Trademarks, Industrial Designs and Geographical Indications, Twenty-Third Session, Geneva, June 30-July 2, 2010, p. 13.

(confectionery and sweets). Hence, the mark was considered descriptive under Mexican industrial property law .

Substantial law in context:

-Paris Convention Article 6*quinquies*(B)(2)

-Law on Industrial Property of Mexico (Official Gazette of Mexico, amended version published on April 2, 2012 )<sup>283</sup>

*Article 90 (IV):*

*“IV. names, figures or three-dimensional shapes which, when their characteristics are considered as a whole, are descriptive of the products or services to which they are intended to afford trademark protection. The above shall include descriptive or indicative words which, in trade, serve to identify the kind, quality, quantity, composition, purpose, value or place of origin of the products or the time of their production.”*

### **23. SREDEP-test for assessment of descriptiveness (purpose of goods or services)**

-Question/Statement:

The words indicate the purpose of the product.

STRES DEPRES

The question was constructed on the basis of the trademark TM 2002/108, refused by the Macedonian State Industrial Property Office. More information at:  
<http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?nr=108&series=2002>

Substantial law in context:

-Paris Convention Article 6*quinquies*(B)(2)

- Article 7 (c ) EUTMR (EU) 2017/1001;

---

<sup>283</sup> The text of the Law is available at: <http://www.wipo.int/wipolex/en/details.jsp?id=11711>

-Article 15 TRIPS.

- MKLIP Article 177 (1), paragraph 4.

24. NICEP-**test for assessment of descriptiveness (value of goods or services)**

-Question/Statement:

The words indicate the value of the product.

NICE PRICE

Trademark used for test construction:

Application 2003/321, submitted by Sony Music Entertainment Inc., a Delaware corporation, before the Macedonian State Office of Industrial Property. The trademark was refused on the grounds of descriptiveness.

Details are available at:

<http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?nr=321&series=2003>

Relevant substantial law for the test:

-Paris Convention Article *6quinquies*(B)(2)

- Article 7 (c ) EUTMR (EU) 2017/1001;

-Article 15 TRIPS.

- MKLIP Article 177 (1), paragraph 4.

25. MXC- **test for assessment of descriptiveness (geographical origin of goods and services)**

-Question/Statement:

The sign reminds me of the place of origin of the product.





The test was made on the basis of the refused trademark KAFE MINAS МЕКЦИКО, a sign consisting of both name and logo, submitted before the Macedonian State Office of Industrial Property. The ground for refusal was descriptiveness.

The test is related to the following substantial law:

- Paris Convention Article 6quinquies(B)(2)
- Article 7 (c ) EUTMR (EU) 2017/1001;
- Article 15 TRIPS.
- MKLIP Article 177 (1), paragraph 4.

**26. COSEC- test for assessment of descriptiveness (time of production of goods or of rendering of services)**

-Question/Statement:

The sign, when placed on a bottle of alcoholic beverage, associates the vintage year.



The question is made from the practice of the Mexican Industrial Property Institute (IP Office), i.e. a trademark refused on the grounds of descriptiveness, since according to the office

it suggested the vintage year (1954), which was considered a good year, so it in fact provides privilege to the mark.<sup>284</sup>

The test is related to the following substantial law:

-Paris Convention Article 6*quinquies*(B)(2)

-TRIPS Article 15.

-Law on Industrial Property of Mexico (Article 90) (Official Gazette of Mexico, amended version published on April 2, 2012 )<sup>285</sup>

## **27. MUS- test for assessment of descriptiveness (technical characteristics of goods**

-Question/Statement:

**These words indicate certain technical characteristics of the product:**

### **Multi Utility Server**

The test was constructed on the bases of the application No. 3020090492689, an application for a word mark, submitted by Deutsche Telekom to the German IP office (DPMA). The application was redrawn.

The application was refused by OHIM in 2010, on the grounds of Article 7(1)(c) CTMR.

Information on both applications is available at :

<https://register.dpma.de/DPMAregister/marke/register/3020090492689/DE?lang=en>

<https://euipo.europa.eu/eSearch/#details/trademarks/008836538>

Substantial law in context of the test:

-Paris Convention Article 6*quinquies*(B)(2)

-TRIPS Article 15.

- Article 7 (c ) EUTMR (EU) 2017/1001;

-Act on the Protection of Trade Marks and other Symbols of 25 October 1994:<sup>286</sup>

---

<sup>284</sup> WIPO (2009), Grounds for Refusal of All Types of Marks, Document Prepared by the Secretariat (SCT/23/2), Standing Committee on the Law on Trademarks, Industrial Designs and Geographical Indications, Twenty-First Session, Geneva, June 22-26, 2009, Annex I, p. 15.

<sup>285</sup> Available at: <http://www.wipo.int/wipolex/en/details.jsp?id=11711>

<sup>286</sup> (Federal Law Gazette [BGBl.]) Part I p. 3082, as last amended by Art. 3 of the Act of 19 October 2013, Federal Law Gazette (Bundesgesetzblatt) Part I p. 3830. Available at: [http://www.gesetze-im-internet.de/englisch\\_markeng/englisch\\_markeng.html#p0025](http://www.gesetze-im-internet.de/englisch_markeng/englisch_markeng.html#p0025)

*“Section 8*

*Absolute obstacles to protection:*

*.....(2) The following trade marks shall be excluded from registration:*

- 1. those which are devoid of any distinctive character for the goods or services,*
- 2. which consist exclusively of signs or indications which may serve, in the course of trade, to designate the nature, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the services or to designate other characteristics of the goods or services,...*”

28. **TEFLON-test for assessment of (non)genericness**

Question:

**“Teflon” is an exact, specific brand (trademark).**

The test assesses the issues of genericness in the context of probable loss of distinctiveness customary in the current language (Macedonian).

Trademarks used for question construction:

-TEFLON, a trademark owned by E.I. du Pont de Nemours and Company, US, registered by the Macedonian State Office for Industrial Property. Trademark available at:

<http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?nr=9052&series=1995>

-TEFLON, EUTM 000432120, owned by The Chemours Company FC, LLC.

Trademark info available at:

<https://euipo.europa.eu/eSearch/#details/trademarks/000432120>

Relevant law in context:

-Paris Convention Article 6*quinquies*(B)(2)

-TRIPS Article 15.

- Article 7 EUTMR (EU) 2017/1001:

*"1. The following shall not be registered: ....*

*....(c) 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 or the time of production of the goods or of rendering of the service, or other characteristics of the goods or service;*

*(d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade;*

*(e) signs which consist exclusively of:*

- (i) *the shape, or another characteristic, which results from the nature of the goods themselves;*
- (ii) *the shape, or another characteristic, of goods which is necessary to obtain a technical result;*
- (iii) *the shape, or another characteristic, which gives substantial value to the goods;..."*

Article 177, Macedonian Law on Industrial Property:<sup>287</sup>

*"(1) A trademark shall not protect a sign:*

- 1. the publishing or use of which is contrary to the public order or morality;*
- 2. which cannot be represented graphically;*
- 3. which is not distinctive, i.e. capable for distinguishing goods or services in trade;*
- 4. which indicates exclusively the kind of goods or services, their purpose, time or manner of production, geographical origin, quality, price, quantity or weight;*
- 5. which has become usual in the everyday speech or in the established trade practice for marking certain type of goods i.e. services;*
- 6. which exclusively consists of shape defined by the kind of goods, shape of goods necessary to obtain a specific technical result or shape giving a substantial value to the goods;*
- 7. the appearance of which may create confusion in trade and mislead the average consumer particularly as to the geographical origin, kind, quality or any other characteristic of the goods or services;.."*

## 29. TRMOS-test for assessment of (non)genericness

Question/Statement:

**“Thermos” is a type of product.**

The question was constructed on the basis of the following trademarks:

---

<sup>287</sup> Available at:  
[http://www.wipo.int/wipolex/en/text.jsp?file\\_id=437665](http://www.wipo.int/wipolex/en/text.jsp?file_id=437665)

-THERMOS, trademark owned by: Thermos L.L.C., US, registered at the Macedonian IP office. Information available at:

<http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?nr=92868&series=1994>

- GENUINE THERMOS BRAND 110 YEARS 1904 2014 EUTM 012399705.

Information available at:

<https://euipo.europa.eu/eSearch/#details/trademarks/012399705>

Relevant legislation in context:

-Paris Convention Article 6<sup>quinquies</sup>(B)(2)

-TRIPS Article 15;

- Article 7 EUTMR (EU) 2017/1001;

-Article 177, Macedonian Law on Industrial Property;

- 15 U.S.C. 1064 (SECTION 14 OF THE LANHAM ACT): §1064 CANCELLATION OF REGISTRATION:<sup>288</sup>

*"...A petition to cancel a registration of a mark, stating the grounds relied upon, may, upon payment of the prescribed fee, be filed as follows by any person who believes that he is or will be damaged, including as a result of a likelihood of dilution by blurring or dilution by tarnishment under section 1125(c) of this title, by the registration of a mark on the principal register established by this chapter, or under the Act of March 3, 1881, or the Act of February 20, 1905:*

*(1) Within five years from the date of the registration of the mark under this chapter.*

*(2) Within five years from the date of publication under section 1062(c) of this title of a mark registered under the Act of March 3, 1881, or the Act of February 20, 1905.*

*(3) At any time if the registered mark becomes the generic name for the goods or services, or a portion thereof, for which it is registered, or is functional, or has been abandoned, or its registration was obtained fraudulently or contrary to the provisions of section 1054 of this title or of subsection (a), (b), or (c) of section 1052 of this title for a registration under this chapter, or contrary to similar prohibitory provisions of such prior Acts for a registration under such Acts, or if the registered mark is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used. If the registered mark becomes the generic name for less than all of the goods or services for which it is registered, a petition to cancel the registration for only those goods or services may be filed. A registered mark shall not be deemed to be the generic name of goods or services solely because such mark is also used as a name of or to identify a unique product or service. The primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the generic name of goods or services on or in connection with which it has been used...."*

---

<sup>288</sup> Available at: <https://www.bitlaw.com/source/15usc/1064.html>

### 30. BLB- test for assessment of public order and morality

Question/Statement:

„This sign used for condoms is contrary to the public order and morality“.



Trademarks used for question construction:

BILLY BOY: 4510/2000, Registered at the Austrian Patent Office (OPA); 1181082, Registered at the German Patent and Trademark Office (DPMA), and other marks owned by: MAPA GmbH.

Relevant legislation in context:

-Paris Convention Article 6*quinquies*(B):

*B. Trademarks covered by this Article may be neither denied registration nor invalidated except in the following cases:*

*(i) when they are of such a nature as to infringe rights acquired by third parties in the country where protection is claimed;*

*(ii) when they are devoid of any distinctive character, or consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, place of origin, of the goods, or the time of production, or have become customary in the current language or in the bona fide and established practices of the trade of the country where protection is claimed;*

*(iii) when they are contrary to morality or public order and, in particular, of such a nature as to deceive the public. It is understood that a mark may not be considered contrary to public order for the sole reason that it does not conform to a provision of the legislation on marks, except if such provision itself relates to public order.*

This provision is subject, however, to the application of Article 10bis.

- Article 7 EUTMR (EU) 2017/1001;

"Absolute grounds for refusal

1. The following shall not be registered:  
...(f) trade marks which are contrary to public policy or to accepted principles of morality;"

### 31. EXTS- test for assessment of public order and morality

Question/Statement:

„The following words invoke something prohibited“

“EXTASY IF YOU TASTE IT, YOU’LL BE ADDICT“

Question is constructed on the basis of the following trademark:

Relevant legislation in context:

-Paris Convention Article 6quinquies(B)

- Article 7 EUTMR (EU) 2017/1001

-French Intellectual Property Code:<sup>289</sup>

*Article L711-3*

*(Act No. 96-1106 of 18 December 1996 Art. 12 Official Journal of 19 December 1996)*

*The following may not be adopted as a mark or an element of a mark:*

*a) Signs excluded by Article 6ter of the Paris Convention for the Protection of Industrial Property of March 20, 1883,*

*as revised or by paragraph 2 of Article 23 of Annex 1C to the Agreement Establishing the World Trade Organization;*

*b) Signs contrary to public policy or morality or whose use is prohibited by law;*

*c) Signs liable to mislead the public, particularly as regards the nature, quality or geographical origin of the goods or services.*

### 32. MEKA- test for assessment of public order and morality

Question/Statement:

„When the following word would be placed on pork meat products, it would cause religious intolerance.“

**MEKKA**

The test is constructed on the basis of the refused word mark „MEKKA“ (Mecca in Norwegian), application submitted for a trademark for goods for the classes 29 & 30 (pork meat).

---

<sup>289</sup> Available at: [https://www.legifrance.gouv.fr/content/download/1959/13723/version/3/.../Code\\_35.pdf](https://www.legifrance.gouv.fr/content/download/1959/13723/version/3/.../Code_35.pdf)

-Paris Convention Article 6*quinquies*(B)

-Norwegian Trademarks Act Section 15. Trademarks that conflict with public interests: <sup>290</sup>

*A trademark cannot be registered if it:*

*-is contrary to law or public order or is liable to cause offence,*

*-is liable to deceive, for example in respect of the nature, quality or geographical origin of the goods or services, or*

*contains, without authorization, escutcheons or another sign covered by Section 165, letter b and Section 166 of the Norwegian Penal Code, a national flag or anything that is liable to be understood as such a sign or flag.*

### **33. TXEX-test for assessment of deceptiveness (product quality)**

Question/Statement:

“The sign indicated that the service has quality”



Trademark used for question construction:

Application no. TM 2008/1190, submitted at the Macedonian IP Office, trademark owner: Unistil Company Ismail, Skopje. <sup>291</sup> The application was refused, due to non-compliance with Macedonian Law on Industrial Property, Article 177 (1) paragraph 4.

Relevant legislation:

-Paris Convention Article 6*quinquies*(B)(2)

-Article 4 & Article 7 EUTMR (EU) 2017/1001; Article 15 TRIPS, as well as Article 3 (c) of EUTMIR (C (2017)3224).

-Law on Industrial Property (MKLIP) (Official Gazette of the Republic of Macedonia No. 21/2009 & 24/11), Article 177 (1), paragraph 4:

*“(1) A trademark shall not protect a sign:*

---

<sup>290</sup> English version of the Norwegian Law is available at:

<https://www.patentstyret.no/en/services/trademarks/rules-and-regulations-trademarks/trademarks-act/>

<sup>291</sup> Trademark file available at:

<http://www.ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?nr=1190&series=2008>

<https://www.tmdn.org/tmview/get-detail?st13=MK500000200801190>



..... 4. which indicates exclusively the kind of goods or services, their purpose, time or manner of production, geographical origin, quality, price, quantity or weight..”

### 34. FCUK- test for assessment of public order and morality

Question/Statement:

„The following sign (when put on clothes) is indecent.“

**F C U K**

The test was constructed on the basis of the following trademark: FCUK, registered EUTM 000743112, owned by French Connection Limited,<sup>292</sup> for classes 18 & 25.

- Paris Convention Article 6quinquies(B)
- Article 7 EUTMR (EU) 2017/1001

### 35. PINAP-test for assesment of deceptiveness (nature and quality of product)

Question/Statement:

„The signs indicates quantity of a certain ingridient“



Trademark used for the test: TM 2006/1213, submitted by Gala foods, Skopje, refused by the Macedonian Industrial Property Office.<sup>293</sup>

The test is related to the following substantial law:

- Paris Convention Article 6quinquies(B)(2)

---

<sup>292</sup> Trademark info at: <https://euipo.europa.eu/eSearch/#details/trademarks/000743112>

<sup>293</sup> File available at: <http://www.ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?nr=1213&series=2006>

- Article 7 (c ) EUTMR (EU) 2017/1001;

-Article 15 TRIPS.

- MKLIP Article 177 (1), paragraph 4.

### 36. DANORIG- test for assessment of deceptiveness (product geographical origin)

Question/Statement:

„The signs indicates the place of production”



The test is constructed on the basis of the refused trademark “Krassi majonez danski” (Macedonian words for: Krassi Danish Mayonnaise ), owned by the company Konsul Ltd (based in Bulgaria).<sup>294</sup>

Relevant legislation in context:

-1. The following shall not be registered:

-Paris Convention Article 6quinquies(B)(2)

- Article 7 (c ) EUTMR (EU) 2017/1001;

-Article 15 TRIPS.

-Law on Industrial Property (MKLIP) (Official Gazette of the Republic of Macedonia No. 21/2009 & 24/11), Article 177 (1), paragraph 4:

---

<sup>294</sup> Trademark available at:

<https://www.tmdn.org/tmview/get-detail?st13=MK500000200600050#anchorPriority>  
<http://www.ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?nr=50&series=2006>

*“(1) A trademark shall not protect a sign:*

*...7. the appearance of which may create confusion in trade and mislead the average consumer particularly as to the geographical origin, kind, quality or any other characteristic of the goods or services..”*

**37. FRSIM-test for assessment of identicalness/similarity with official signs and emblems.**

Question/Statement:

„The sign reminds me of symbols of a particular country“



Trademark utilized for question construction: boutique Alexandar, submitted for products for class 25 (clothes, shoes, hats) before the Macedonian State Office of Industrial Property. The sign was rejected due to the French flag contained in the sign. In accordance with the relevant provisions of the Paris Convention, an appropriate approval by a competent authority was demanded from the applicant. The applicant has failed to submit the approval within the prescribed deadline, so the trademark was rejected.<sup>295</sup>

Relevant legislation in context:

-Paris Convention Article 6ter:

*"Marks: Prohibitions concerning State Emblems, Official Hallmarks, and Emblems of Intergovernmental Organizations*

*(1)*

---

<sup>295</sup> Decision of the Macedonian State Office for Industrial Property No.10-5471/3 of 01.12.2003. See: Simjanovski, S. (2009). *Trademark. Absolute and Relative Grounds for Refusal of Trademark Application*, SOIP, Skopje, p.44-45.

*(a) The countries of the Union agree to refuse or to invalidate the registration, and to prohibit by appropriate measures the use, without authorization by the competent authorities, either as trademarks or as elements of trademarks, of armorial bearings, flags, and other State emblems, of the countries of the Union, official signs and hallmarks indicating control and warranty adopted by them, and any imitation from a heraldic point of view.*

*(b) The provisions of subparagraph (a), above, shall apply equally to armorial bearings, flags, other emblems, abbreviations, and names, of international intergovernmental organizations of which one or more countries of the Union are members, with the exception of armorial bearings, flags, other emblems, abbreviations, and names, that are already the subject of international agreements in force, intended to ensure their protection.*

*(c) No country of the Union shall be required to apply the provisions of subparagraph (b), above, to the prejudice of the owners of rights acquired in good faith before the entry into force, in that country, of this Convention. The countries of the Union shall not be required to apply the said provisions when the use or registration referred to in subparagraph (a), above, is not of such a nature as to suggest to the public that a connection exists between the organization concerned and the armorial bearings, flags, emblems, abbreviations, and names, or if such use or registration is probably not of such a nature as to mislead the public as to the existence of a connection between the user and the organization.*

*(2) Prohibition of the use of official signs and hallmarks indicating control and warranty shall apply solely in cases where the marks in which they are incorporated are intended to be used on goods of the same or a similar kind....."*

-Article 7 (1) (i) EUTMR (EU) 2017/1001:

*"1. The following shall not be registered:*

*....(i)trade marks which include badges, emblems or escutcheons other than those covered by Article 6ter of the Paris Convention and which are of particular public interest, unless the consent of the competent authority to their registration has been given;.."*

*The existency of the exactness of the TM battery was verified and determined by factorization of the answers of the Likert-type scale.*

- MKLIP Article 177 (1), paragraph 10:

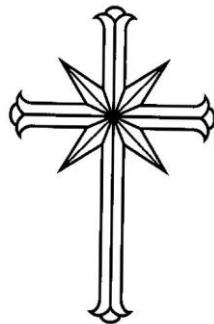
*"(1) A trademark shall not protect a sign:*

....10. which contains a national coat of arms or other public coat of arms, flag or emblem, name or abbreviated name of a country or an international organization, as well as imitations thereof, according to Article 6-ter of the Paris Convention, except with authorization from the competent authority of the country or organization"

### 38. CROSS--test for assessment of public order/morality (religious symbols)

Question/Statement:

-This sign reminds me of a religious symbol:



Trademark used for test construction:

An application submitted to the Macedonian IP Office and rejected due to absolute grounds for refusal of trademark registration<sup>296</sup>

The Macedonian IP Office has noted that the application for registration of the sign as a trademark doesn't satisfy the conditions for recognition, i.e. it is not in accordance with the law on industrial property, since it is a sign comprised of a cross, which is a symbol Christianity and has been always used and it refers to the Christian church as a sign for marking of objects,

---

<sup>296</sup> Decision of the Macedonian State Office for Industrial Property No.10-4285/4 of 30.01.2007.

books and so on. Hence, the IP Office considers that it is contrary to the moral to use the cross or its variants by third persons in commerce. <sup>297</sup>

Relevant legislation in context:

-Article 7 (1) (i) EUTMR (EU) 2017/1001.

-Paris Convention Article 6*quinquies*(B):

*“ Trademarks covered by this Article may be neither denied registration nor invalidated except in the following cases:*

*...(iii) when they are contrary to morality or public order and, in particular, of such a nature as to deceive the public. It is understood that a mark may not be considered contrary to public order for the sole reason that it does not conform to a provision of the legislation on marks, except if such provision itself relates to public order.”*

- MKLIP Article 177 (1), paragraph 1:

“Absolute grounds for refusal

Article 177

(1) A trademark shall not protect a sign:

1. the publishing or use of which is contrary to the public order or morality.”

### **39. SWIDMI-test for assessment of geographical elements**

Question/Statement:

-The word that I see contains geographical elements.

The logo for SWEDMILK features the word "SWED" in a bold, yellow, sans-serif font, followed by "MILK" in a bold, blue, sans-serif font. The letters are slightly shadowed, giving the logo a three-dimensional appearance.

The test was constructed on the basis of the following trademark owned by SWEDMILK Macedonia DOO, registered at the Macedonian IP Office. <sup>298</sup>

Relevant legislation in context:

-Article 7 (1) EUTMR

Absolute grounds for refusal

1. *The following shall not be registered:*

*.....(c)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 or the*

---

<sup>297</sup> See: Simjanovski, S. (2009). *Trademark. Absolute and Relative Grounds for Refusal of Trademark Application*, SOIP, Skopje, p.42-43.

<sup>298</sup> Info available at: <https://www.tmdn.org/tmview/get-detail?st13=MK500000200601013>

*time of production of the goods or of rendering of the service, or other characteristics of the goods or service;...*

*..g)trade marks which are of such a nature as to deceive the public, for instance as to the nature, quality or geographical origin of the goods or service;...*

*....(j)trade marks which are excluded from registration, pursuant to Union legislation or national law or to international agreements to which the Union or the Member State concerned is party, providing for protection of designations of origin and geographical indications;...”*

-Article 8 (6) EUTMR

*Relative grounds for refusal*

*....6. Upon opposition by any person authorized under the relevant law to exercise the rights arising from a designation of origin or a geographical indication, the trade mark applied for shall not be registered where and to the extent that, pursuant to the Union legislation or national law providing for the protection of designations of origin or geographical indications:*

*(i)an application for a designation of origin or a geographical indication had already been submitted, in accordance with Union legislation or national law, prior to the date of application for registration of the EU trade mark or the date of the priority claimed for the application, subject to its subsequent registration;*

*(ii)that designation of origin or geographical indication confers the right to prohibit the use of a subsequent trade mark.*

-Paris Convention Article 6*quinquies*(B) (ii).

-Article 15(1) TRIPS.

-MKLIP Article 177 (1) :

*“...4. which indicates exclusively the kind of goods or services, their purpose, time or manner of production, geographical origin, quality, price, quantity or weight;..*

*..7.the appearance of which may create confusion in trade and mislead the average consumer particularly as to the geographical origin, kind, quality or any other characteristic of the goods or services;*

-MKLIP Article 207 :

*(1) The trademark shall not entitle its owner to prohibit third right-owners to use in trade their name, surname, sign or trade name, address, indications on the kind, quality, quantity, purpose, value, geographical origin, date of production of the goods or rendering of the services or any other characteristic of the goods, irrespective of the fact that those indications are identical with or similar to the trademark or parts thereof, provided that they are used in compliance with the good business practices and does not lead to unfair market competition.*

-MKLIP Article 213

*(1) A trademark shall cease to be valid when:*

*.....3) because of the method of usage by the holder of the right or by his approval, of the goods and services for which it has been registered, and which may lead the public to confusion with regard to the type, quality or the geographical origin of those goods or services...”*

#### 40. DSG-test for assessment of distinctiveness of shapes



Question/Statement:

-The shape on the pictures enables me to identify the producer.

Trademark utilized for construction of the test:

A three-dimensional trademark application submitted before the Estonian Patent Office for goods (class 14). The application was refused by the Board of Appeal, since “it consists exclusively of the shape which results from the nature of the goods”.<sup>299</sup>

Relevant legislation in context:

-Paris Convention Article 6*quinquies*(B) (ii).

-Article 15(1) TRIPS.

-Article 7 (1) EUTMR

“Absolute grounds for refusal

*1. The following shall not be registered:*

...(e) signs which consist exclusively of:

- (i) the shape, or another characteristic, which results from the nature of the goods themselves;
- (ii) the shape, or another characteristic, of goods which is necessary to obtain a technical result;
- (iii) the shape, or another characteristic, which gives substantial value to the goods;..”

- Trade Marks Act of Estonia (Passed 22.05.2002, RT I 2002, 49, 308, Entry into force 01.05.2004).<sup>300</sup>

“§ 9. *Absolute circumstances which preclude legal protection*

*(1) Legal protection is not granted to the following signs:*

.... 5) *signs which consist exclusively of the shape which results from the nature of the goods, is necessary to obtain a technical result or gives substantial value to the goods;..”*

---

<sup>299</sup> WIPO (2010), Grounds for Refusal of All Types of Marks, Document Prepared by the Secretariat (SCT/23/2), Standing Committee on the Law on Trademarks, Industrial Designs and Geographical Indications, Twenty-Third Session, Geneva, June 30-July 2, 2010, Annex I, p.29.

<sup>300</sup> English version available at: <https://www.riigiteataja.ee/en/eli/ee/RK/a/518112013005/consolide/current>



**41. LADYDI-test for assessment of bad faith (economic exploitation of person's popularity).**

Question/Statement:

The used of the following words for a certain product without appropriate consent constitutes acting in bad faith.

**LADY DI**

Trademarks used for construction of the question:

- In September 1997, Several "Lady Di" trademarks applications submitted before the German Patent & Trademark Office, starting one day after the death of Diana Princess of Wales.<sup>301</sup> The Office examined ex officio the possible bad faith having in mind the period of submitting of the application and the intention to interfere with the financial exploitation of the name.<sup>302</sup>
  
- EUTM 000644401, registered for class 24 (Textiles and textile goods, not included in other classes; bed and table covers), owned by LUCAS REAL ESTATE S.R.L.<sup>303</sup>

Relevant legislation:

- Article 59 EUTMR

*Absolute grounds for invalidity*

*"1. An EU trade mark shall be declared invalid on application to the Office or on the basis of a counterclaim in infringement proceedings:*

*(a) where the EU trade mark has been registered contrary to the provisions of Article 7;*

*(b) where the applicant was acting in bad faith when he filed the application for the trade mark."*

-Paris Convention Article 6 bis:

*"...(3) No time limit shall be fixed for requesting the cancellation or the prohibition of the use of marks registered or used in bad faith."*

---

<sup>301</sup> More info on these applications is available at:

<https://register.dpma.de/DPMAREgister/marke/register/397417063/DE>

<https://register.dpma.de/DPMAREgister/marke/register/397426380/DE>

<https://register.dpma.de/DPMAREgister/marke/register/397429924/DE>

<sup>302</sup> WIPO (2010), Grounds for Refusal of All Types of Marks, Document Prepared by the Secretariat (SCT/23/2), Standing Committee on the Law on Trademarks, Industrial Designs and Geographical Indications, Twenty-Third Session, Geneva, June 30-July 2, 2010, Annex I, p.30.

<sup>303</sup> Trademark info available at: <https://euipo.europa.eu/eSearch/#details/trademarks/000644401>

-Act on the Protection of Trade Marks and other Symbols of 25 October 1994 (Federal Law Gazette [BGBl.] Part I p. 3082, as last amended by Art. 3 of the Act of 19 October 2013, Federal Law Gazette (Bundesgesetzblatt) Part I p. 3830 :

*Section 8*

*Absolute obstacles to protection*

*"...10. which have been applied for in bad faith."*

**-Trademark similarity tests (42-55):**

**42. NESTTE-test for assessment of similarity (well known trademark; Identical or similar goods or services)**

Question/Statement:

-This sign reminds me of another sign.



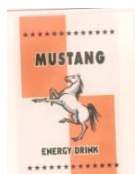
-Trademark used for question construction:

“Nestte” trademark application, submitted to the Macedonian IP Office. The application was rejected on the grounds of similarity with prior trademark and having in mind Article 6bis of the Paris Convention, since the sign in the trademark application contains the same elements, same colors, identical order and almost identical dominant word with “Nestle”, a well-known trademark.<sup>304</sup>

**43. MUST-test for assessment of similarity (conceptual similarity)**

-Question/Statement:

Both signs are similar.



---

<sup>304</sup> Decree No. 10-979/5 of 03/03/1998 of the Macedonian IP Office (according to the Law on Industrial Property of 1993, Official Gazette 42/93). See: Simjanovski, S. (2009). Trademark. Absolute and Relative Grounds for Refusal of Trademark Application, SOIP, Skopje, p.59-60.

-Trademarks used for question construction:

“MUSTANG ENERGY DRINK” (application refused by the Macedonian IP Office, on the grounds of conceptual similarity, Article 16 TRIPS, Article 6bis of the Paris Convention); Red Bull Energy Drink (prior a three dimensional trademark registered at the Macedonian IP Office).<sup>305</sup>

#### 44. BUHL-test for assessment of similarity

-Question/Statement:

Both signs are similar.



-Trademarks used for question construction:

“BÜHLER” sign (No.1 in the above picture), rejected by the Macedonian IP office on the grounds that the trademark is “textually identical” and “very similar” to a prior registered trademark “BÚHLER” (No. 2 ).<sup>306</sup>

#### 45. COLA-test for assessment of similarity



-Question/Statement:

Both signs are similar.

-Trademarks used for question construction:

COCA-COLA, EUTM 015962962, owned by the The Coca-Cola Company;<sup>307</sup>

COCKTA, EUTM 0227215, owned by Droga Kolinska, Živilska industrija, d.d., Slovenia.<sup>308</sup>

---

<sup>305</sup> Decree No. 10-2007/899/1 of the Macedonian IP Office (Simjanovski, S. (2009). Trademark. Absolute and Relative Grounds for Refusal of Trademark Application, SOIP, Skopje, p.68-69).

<sup>306</sup> Decree 1875/3 of 14.03.2003 , according to the Law on IP Office of 1993 Official Gazette 42/93.

Simjanovski, S. (2009). Trademark. Absolute and Relative Grounds for Refusal of Trademark Application, SOIP, Skopje, p.58.

<sup>307</sup> Details about the trademark: <https://euipo.europa.eu/eSearch/#details/trademarks/015962962>

<sup>308</sup> Trademark details:

<https://euipo.europa.eu/eSearch/#details/trademarks/W10227215>

#### 46. INS-test for assessment of similarity

-Question/Statement:

Both signs are similar.



-Trademarks used for question construction:

“Intellicom” trademark application (No.1 in the above picture) was submitted for registration before the Macedonian IP Office. INTELIKOM LTD, the owner of a prior registered “Intellicom” Trademark (No.2 above) has submitted an objection, stating that the trademark application is identical with the prior registered trademark. The IP Office has accepted the statements of INTELIKOM LTD and with a Decree NO. TM 10-2006/325/6 of 7.9.2008, rejected the application on the grounds that “ the sign in the application is identical or similar to a prior submitted or registered trademark of other entity for the same similar type of goods or services, if that similarity can create a confusion for the average consumer.”<sup>309</sup> More info on the prior trademark is available on TM View,<sup>310</sup> as well as the Macedonian IP Office data base.<sup>311</sup>

#### 47.PERIN-test for assessment of similarity

-Question/Statement:

These words are similar.

**PERIN**      **PERSIL**

Trademarks used for question construction:

In an opposition procedure, the Macedonian IP Office has reviewed the objection for registration of PERIN trademark application, submitted by owner of the an earlier registered trademark “PERSIL” .

---

<sup>309</sup> Simjanovski, S. (2009). Trademark. Absolute and Relative Grounds for Refusal of Trademark Application, SOIP, Skopje, p.53.

<sup>310</sup> <https://www.tmdn.org/tmview/get-detail?st13=MK500000201400067>

<sup>311</sup> <http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?appnr=201400067>

The owner of the PERSIL trademark stating that there is a similarity in the textual presentation between the prior registered trademark (PERSIL) and the application (PERIN); this will mislead the average consumer, particularly due to the identicalness of the first three letters (PER), specially since the application is for the same classes of products. The respondent, SAPONIA KEMIJSKA, PREHRAMBENA I FARMACEUTSKA INDUSTRIJA d.d. Osijek (PERIN trademark applicant) in the answer to the allegations in the objection has stated that there is a difference in more than three letter, and there is no chance of misleading the average consumer, specially since both trademarks coexisted on the market in the past and were registered in the former Yugoslav IP Office.

The Macedonian IP Office has accepted the response of the PERIN trademark applicant and approved the registration of the trademark, stressing that from a phonetical point of view, the difference is even more evident.<sup>312</sup>

Details about the PERIN trademark, owned by SAPONIA KEMIJSKA, PREHRAMBENA I FARMACEUTSKA INDUSTRIJA d.d. Osijek available at TMVIEW.<sup>313</sup> Info on the PERSIL trademarks owned by Henkel AG & Co. KGaA, Düsseldorf is also available online.<sup>314</sup>

#### 48. SPUMA-test for assessment of similarity (visual, figurative, conceptual similarity)

-Question/Statement:

**Both signs are similar.**



1



2

-Construction of the test

The test was constructed on the basis of the famous ECJ 11 November 1997, case C-251/95, Puma/Sabel (Judgment; ECLI:EU:C:1997:528; Opinion: ECLI:EU:C:1997:221). Puma submitted opposition to the registration of that mark on the ground, since PUMA was the owner of the mark (No.2 in the above pictures) (German TM 1 106 066). Even though the German Patent Office found no likelihood of confusion, Puma lodged an appeal to the Federal Patents Court, which found that “held that there was a resemblance between the two marks with respect

---

<sup>312</sup> Decision No. 10-959/3 od 22.05.2003, Official Journal 42/93. Simjanovski, S. (2009). Trademark. Absolute and Relative Grounds for Refusal of Trademark Application, SOIP, Skopje, p.87-88..

<sup>313</sup> <https://www.tmdn.org/tmview/get-detail?st13=MK500000200300976>

<sup>314</sup> <http://www.wipo.int/madrid/monitor/en/showData.jsp?ROM=1&ID=ROM.0159190#https://euipo.europa.eu/eSearch/#details/trademarks/013556246>

to SABEL's goods in classes 18 and 25, which it regarded as being identical or similar to the goods on the list of articles covered by the Puma mark.”<sup>315</sup>

Sabel has appealed the decision before the Federal Court of Justice ((Bundesgerichtshof – BGH). BGH temporarily found that under German law for there is no likelihood concerning the two trademarks, but has raised the question “whether the mere association which the public might make between the two marks, through the idea of a 'bounding feline', justifies refusing protection to the SABEL mark in Germany for products similar to those on the list of articles covered by Puma's priority mark”,<sup>316</sup> considering the "ambiguous wording of Article 4(1 )(b) of the Directive, in terms of which the likelihood of confusion 'includes the likelihood of association with the earlier trade mark'.<sup>317</sup>

In its ruling on the interpretation of Article 4(1)(b) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trademarks (OJ 1989 L 40, p.1), the ECJ ruled that: “where the earlier mark is not especially well known to the public and consists of an image with little imaginative content, the mere fact that the two marks are conceptually similar is not sufficient to give rise to a likelihood of confusion’ and that the "The answer to the national court's question must therefore be that the criterion of 'likelihood of confusion which includes the likelihood of association with the earlier mark' contained in Article 4(1 )(b) of the Directive is to be interpreted as meaning that the mere association which the public might make between two trade marks as a result of their analogous semantic content is not in itself a sufficient ground for concluding that there is a likelihood of confusion within the meaning of that provision.”<sup>318</sup>

-Relevant legislation applied in the time of the decision: Article 4 and 5 (1)(b) Trade Mark Directive.

The Sabel trademark is owned by Sabel V.O.F. Raadhuislaan 20, NL-3271 BT MIJNSHEERENLAND (NL) . Details are available online.<sup>319</sup> Information about the Puma trademarks, owned by PUMA SE, are available online.<sup>320</sup>

#### **49.LADA-test for assessment of similarity (visual, figurative, conceptual similarity)**

-Question/Statement:

**Both signs are similar.**

---

<sup>315</sup> ECJ Case C-251/95, para 4.

<sup>316</sup> Ibid., para 5.

<sup>317</sup> Ibid., para 7.

<sup>318</sup> The Judgment and the Opinion of the Case are available at: <http://curia.europa.eu/juris/liste.jsf?num=C-251/95>

<sup>319</sup> <http://www.wipo.int/madrid/monitor/en/showData.jsp?ROM=1&ID=ROM.0540894>

<sup>320</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/W10582886>



1



2

-Trademarks used for construction of the test:

-LADA trademarks owned by AVTOVAZ, Tolyatti, Samara Oblast, Russia, a car producer (No 1. The above pictures).<sup>321</sup>

-LIFAN trademark (Registered at the China Trademark Office, Number: 3070340 Class: 5), owned by Lifan Motors Group, also a car producer (No.2 in the picture above).<sup>322</sup>

#### **50. IKEA-test for assessment of similarity /aural, phonetical similarity/**

-Question/Statement:

**When I hear these two words, they sound identical to me.**

**IKEA    ИКЕЈА<sup>323</sup>**

Trademarks used for construction of the test:

-IKEA, EUTM 000109637, owned by: Inter IKEA Systems B.V.<sup>324</sup>

-ИКЕЈА, application refused by the Macedonian IP Office, on the grounds of similarity with prior registered trademark.<sup>325</sup>

#### **51. PICASSO-test for assessment of similarity**

-Question/Statement:

The signs are similar to me.

---

<sup>321</sup> [http://www1.fips.ru/fips\\_serv1/fips\\_servlet?DB=RUTM&rn=1248&DocNumber=478441&TypeFile=html](http://www1.fips.ru/fips_serv1/fips_servlet?DB=RUTM&rn=1248&DocNumber=478441&TypeFile=html)

<sup>322</sup> <https://www.chinatradermarkoffice.com/index.php/search/xbshow/3070340/5/1>

<sup>323</sup> The Macedonian pronunciation of the words written in Cyrillic alphabet (ИКЕЈА) and in Latin alphabet (IKEA) are almost identical.

<sup>324</sup> Information available at: <https://euipo.europa.eu/eSearch/#details/trademarks/000109637>

<sup>325</sup> In its Decision, the Macedonian IP Offices stated that “the comparison between the trademark IKEA and the sign ИКЕЈА has undoubtedly indicated that both marks are visual and phonetically almost identical. (Decision TM No. 10-2006/356/5 of 7.08.2008, Macedonian State Office of Industrial Property. See: Simjanovski, S. (2009). Trademark. Absolute and Relative Grounds for Refusal of Trademark Application, SOIP, Skopje, p.55.

The word "Picasso" written in a stylized, cursive black font with a horizontal line underneath.The words "Paloma Picasso" written in a cursive black font.

The test was created having in mind the following trademarks:

-PICASSO, EUTM 001334036 , owned by INDIVISION PICASSO;<sup>326</sup>

-PALOMA PICASSO, EUTM 000409649, owned by a physical person, Anne Paloma Ruiz-Picasso.<sup>327</sup>

## **52. MAGI-test for assessment of similarity (conceptual similarity)**

-Question/Statement:

**There is a similarity between the following two signs.**



Utilized trademarks for test construction:

-BONITO, trademark application submitted by MLADEGS PAK ltd. , Bosnia and Herzegovina, refused by the Macedonian IP Office,<sup>328</sup> on the grounds that it was conceptually similar to a prior registered trademark (Decision No. 10-2002 of 08.07.2008).<sup>329</sup>

-MAGGI, trademark owned by SOCIÉTÉ DES PRODUITS NESTLÉ S.A.<sup>330</sup>

---

<sup>326</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/001334036>

<sup>327</sup> More information about the trademark: <https://euipo.europa.eu/eSearch/#details/trademarks/000409649>

<sup>328</sup> Information available on TM View:

<http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?appnr=200200236>

<sup>329</sup>The IP Office reviewing the opposition of the owner of the prior MAGI trademark, found that “ the comparison of both elements with same dimensions and order enables to conclude that there is an imitation in the graphical solution”, as well as that “the graphism of the prior registered trademark (MAGI) with its long use has become known for all types of products of the owner” of the prior mark. Details of the case available in: Simjanovski, S. (2009). Trademark. Absolute and Relative Grounds for Refusal of Trademark Application, SOIP, Skopje, p.65.

<sup>330</sup> More info on MAGGI trademarks: <https://euipo.europa.eu/eSearch/#details/trademarks/W10375835>

<http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?nr=9568&series=1995>



### 53. LIVIA-test for assessment of similarity (conceptual similarity)

-Question/Statement:

**The sign reminds me of a particular product.**



Trademark used for question construction:

-LIVIA, trademark refused by the Macedonian IP Office, in an opposition procedure, due to similarity with a previous trademark (NIVEA). In the Decision the Office elaborated that the applied trademark would “cause confusion on the market and would lead the average consumer in terms of the origin, type and quality of the product that the consumer intends to buy”.<sup>331</sup>

### 54. ZTRL-test for assessment of similarity (conceptual similarity trade dress similarity)

-Question/Statement:

**There are similarities in the appearance of the products**



Trademarks used for question construction:

-Zottarella EUTM 0552720, owned by Zott SE & Co. KG.<sup>332</sup>

-Dukatela trademarks, owned by DUKAT d.o., Croatia.<sup>333</sup>

---

<sup>331</sup> Decision of the Macedonian IP Office, No. 10-823143 IR/1 of 06.01.2006 (See: Simjanovski, S. (2009). Trademark. Absolute and Relative Grounds for Refusal of Trademark Application, SOIP, Skopje, p.77.).

<sup>332</sup> Information on the trademark available at: <https://euipo.europa.eu/eSearch/#details/trademarks/W10552720>

<sup>333</sup> Designated countries for Dukatela Trademarks included Croatia, Bosnia, Macedonia, Serbia, Montenegro, Slovenia etc. More info on the trademarks:

<http://it-app.dziv.hr/Pretrage/en/z/Detaljno.aspx/Z20170638A>

[http://reg.zis.gov.rs/regis/ndetail.php?captcha=GS7efe&entity=mark&lang=en&file\\_nbr=2003\\_00000755&submit=](http://reg.zis.gov.rs/regis/ndetail.php?captcha=GS7efe&entity=mark&lang=en&file_nbr=2003_00000755&submit=)

## **55. DVDF--test for assessment of similarity (conceptual similarity)**

-Question/Statement:

These two signs are similar.



Trademarks concerned:

- Davidoff, owned Davidoff & Cie SA and Zino Davidoff SA (companies based in Switzerland), a trademark for luxury products present at the German market <sup>334</sup>
- Durfee trademark, owned by Gofkid Ltd ('Gofkid'), a Hong Kong-based company, for products used in Germany.

The construction of the question for the respondents was realized on the basis of German and EU jurisprudence. Namely, before the German courts, Davidoff has asked for annulment of the Durfee trademark, since Durfee trademark was used for identical goods or services. <sup>335</sup> According to the legislation well-known trademarks undoubtedly enjoyed protection for dissimilar goods and services, but the issue that appeared in this case was whether the same rule should apply when well known trademarks (Davidoff) are faced with diluted trademarks for identical goods and services on the market (Durfee).

Hence, in 2003, the highest German court (Bundesgerichtshof <sup>336</sup>) has asked the European Court of Justice for a preliminary ruling whether the relevant EU legislation "(Articles 4(4)(a) and 5(2) of the Directive <sup>337</sup> are to be interpreted as entitling the Member States to provide specific protection for registered trademarks with a reputation in cases where the later mark or sign, which is identical with or similar to the registered mark, is intended to be used or is used for

---

<sup>334</sup> Davidoff trademark details:

<https://www.swissreg.ch/srclient/faces/jsp/trademark/sr300.jsp?language=en&section=tm&id=06366/1992>

<sup>335</sup> Waelde, C., Brown, A., Kheria, S., Cornwell, J. (2016). Contemporary Intellectual Property Law and Policy. New York: Oxford University Press, p.683.

<sup>336</sup> Regarding the relevant German legislation on the issue see: Bodewig, T.(2017). Lehre. Markenrecht. From the webpage: <http://bodewig.rewi.hu-berlin.de/doc/markenrecht/davidoff-durfee.pdf>

<sup>337</sup> First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1)

goods or services identical with or similar to those covered by the registered mark.”<sup>338</sup>

The finding of the court regarding this question was that:

*“ The question debated before the Court was essentially whether protection of a mark with a reputation against the use of a sign for identical or similar goods or services which is detrimental to the distinctive character or repute of the mark cannot already be obtained under Article 5(1) of the Directive, so that it is not necessary to seek it under Article 5(2).*

*Although, in the light of the 10th recital of the Directive, the protection conferred under Article 5(1)(a) is an absolute right when the use affects or is liable to affect one of the functions of the mark (see Case C-206/01 Arsenal Football Club [2002] ECR I-10273, paragraphs 50 and 51), the application of Article 5(1)(b) depends on there being a likelihood of confusion (see Case C-425/98 Marca Mode [2000] ECR I-4861, paragraph 34). The Court points out that in SABEL, cited above (paragraphs 20 and 21), it has already excluded a broad interpretation of Article 4(1)(b) of the Directive, which is, in substance, identical to Article 5(1)(b), an interpretation which had been suggested to it on the ground, inter alia, that Article 5(2) of the Directive, on its wording, applies only where a sign is used for non-similar goods or services.*

*Accordingly, where there is no likelihood of confusion, Article 5(1)(b) of the Directive could not be relied on by the proprietor of a mark with a reputation to protect himself against impairment of the distinctive character or repute of the mark.*

*In those circumstances, the answer to the first question must be that Articles 4(4)(a) and 5(2) of the Directive are to be interpreted as entitling the Member States to provide specific protection for registered trademarks with a reputation in cases where a later mark or sign, which is identical with or similar to the registered mark, is intended to be used or is used for goods or services identical with or similar to those covered by the registered mark.”<sup>339</sup>*

### **Legislation in context (Relevant for the tests 42-55):**

-Paris Convention Article 6bis

*“Marks: Well-Known Marks*

*(1) The countries of the Union undertake, ex officio if their legislation so permits, or at the request of an interested party, to refuse or to cancel the registration, and to prohibit the use, of a trademark which constitutes a reproduction, an imitation, or a translation, liable to create confusion, of a mark considered by the competent authority of the country of registration or*

---

<sup>338</sup> For details of the ECJ case C-292/00 (Judgment:ECLI:EU:C:2003:9 Opinion:ECLI:EU:C:2002:204), see: <http://curia.europa.eu/juris/liste.jsf?num=C-292/00>

<sup>339</sup>Jugsmnt of 9 January 2003, EU:C:2003:9, paragraphs 27-30. Available at: <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d2dc30dd357804ab1404446abadcb9f82848750e.e34KaxiLc3qMb40Rch0SaxyNbhf0?text=&docid=47953&pageIndex=0&doclang=en&mode=lst&dir=&oc c=first&part=1&cid=22456>

*use to be well known in that country as being already the mark of a person entitled to the benefits of this Convention and used for identical or similar goods. These provisions shall also apply when the essential part of the mark constitutes a reproduction of any such well-known mark or an imitation liable to create confusion therewith.*

*(2) A period of at least five years from the date of registration shall be allowed for requesting the cancellation of such a mark. The countries of the Union may provide for a period within which the prohibition of use must be requested.*

*(3) No time limit shall be fixed for requesting the cancellation or the prohibition of the use of marks registered or used in bad faith.”*

-TRIPS Article 16:

#### *Rights Conferred*

*1. The owner of a registered trademark shall have the exclusive right to prevent all third parties not having the owner's consent from using in the course of trade identical or similar signs for goods or services which are identical or similar to those in respect of which the trademark is registered where such use would result in a likelihood of confusion. In case of the use of an identical sign for identical goods or services, a likelihood of confusion shall be presumed. The rights described above shall not prejudice any existing prior rights, nor shall they affect the possibility of Members making rights available on the basis of use.*

*2. Article 6bis of the Paris Convention (1967) shall apply, mutatis mutandis, to services. In determining whether a trademark is well-known, Members shall take account of the knowledge of the trademark in the relevant sector of the public, including knowledge in the Member concerned which has been obtained as a result of the promotion of the trademark.*

*3. Article 6bis of the Paris Convention (1967) shall apply, mutatis mutandis, to goods or services which are not similar to those in respect of which a trademark is registered, provided that use of that trademark in relation to those goods or services would indicate a connection between those goods or services and the owner of the registered trademark and provided that the interests of the owner of the registered trademark are likely to be damaged by such use.*

-Article 8 (1) EUTMR :

#### *“Relative grounds for refusal*

*1. Upon opposition by the proprietor of an earlier trade mark, the trade mark applied for shall not be registered:*

*(a) if it is identical with the earlier trade mark and the goods or services for which registration is applied for are identical with the goods or services for which the earlier trade mark is protected;*

*(b) if, because of its identity with, or similarity to, the 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.”*

-MKLIP Article 178 (1) :

*“Relative grounds for refusal*

*(1) Trademark may not protect a sign:*

- 1. which is identical with an earlier trademark filed or registered by another right-owner designating the identical kind of goods or services;*
- 2. which is identical with or similar to an earlier trademark, filed or registered by another right owner designating the same or similar kind of goods or services which would create confusion at the average consumer, including the possibility of association to earlier filed for or registered trademark..”*

*Article 197*

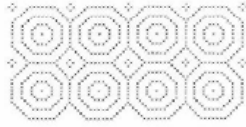
*(1) Opposition to a published trademark application may, within 90 days from the publication date, be filed with the Office by:*

- 1) applicant of an earlier filed trademark application and owner of earlier registered trademark under Article 178 paragraphs (1) to (4) of this Law;*
  - 2) the owner of the trademark registered in a country member of the Paris Union or WTO, for which the representative in the Republic of Macedonia filed an application without the owner's consent;*
  - 3) natural right-owner whose name and surname or appearance are identical with or similar to the published sign;*
  - 4) owner of an earlier protected industrial property right, if the subject matter of that right is identical with or similar to the published sign;*
  - 5) any right-owner having copyright on the work which is identical with or similar to the published sign;*
  - 6) The owner of a trademark that has expired due to the expiration of the term of protection, in the context of article 178, paragraph (6) from this law.*
- (2) The time limit for filing opposition referred to in paragraph (1) of this Article shall not be extended.*
- (3) A separate opposition shall be submitted for each published Trademark Application.*
- (4) The contents of the opposition, as well as the manner of submission shall be prescribed by the regulation issued by the Director of the Office.*

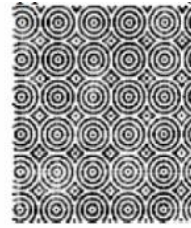
## **56. DRAW-test for assessment of conflict of trademark with a prior design**

-Question/Statement:

Both drawings are similar.



A



B

The question was constructed on the basis of the Case 02-367 (Swedish Court of Patent Appeals), in which the trademark (A) was cancelled in an opposition procedure due to the similarity with a prior design (B), owned by the opponent.<sup>340</sup>

Relevant legislation:

-Paris Convention:

Article 6quinquies

Marks: Protection of Marks Registered in One Country of the Union in the Other Countries of the Union

*...B. Trademarks covered by this Article may be neither denied registration nor invalidated except in the following cases:*

*(i) when they are of such a nature as to infringe rights acquired by third parties in the country where protection is claimed;*

*(ii) when they are devoid of any distinctive character, or consist exclusively of signs or indications which may serve, in trade, to designate the kind, quality, quantity, intended purpose, value, place of origin, of the goods, or the time of production, or have become customary in the current language or in the bona fide and established practices of the trade of the country where protection is claimed;*

*(iii) when they are contrary to morality or public order and, in particular, of such a nature as to deceive the public. It is understood that a mark may not be considered contrary to public order for the sole reason that it does not conform to a provision of the legislation on marks, except if such provision itself relates to public order.*

*This provision is subject, however, to the application of Article 10bis.”*

*...Article 10bis*

*Unfair Competition*

*(1) The countries of the Union are bound to assure to nationals of such countries effective protection against unfair competition.*

*(2) Any act of competition contrary to honest practices in industrial or commercial matters constitutes an act of unfair competition.*

*(3) The following in particular shall be prohibited:*

---

<sup>340</sup> WIPO (2010), Grounds for Refusal of All Types of Marks, Document Prepared by the Secretariat (SCT/23/2), Standing Committee on the Law on Trademarks, Industrial Designs and Geographical Indications, Twenty-Third Session, Geneva, June 30-July 2, 2010, Annex I, p.34. Available at: [http://www.wipo.int/edocs/mdocs/stlt/en/sct\\_23/sct\\_23\\_2.pdf](http://www.wipo.int/edocs/mdocs/stlt/en/sct_23/sct_23_2.pdf)

- (i) all acts of such a nature as to create confusion by any means whatever with the establishment, the goods, or the industrial or commercial activities, of a competitor;*
- (ii) false allegations in the course of trade of such a nature as to discredit the establishment, the goods, or the industrial or commercial activities, of a competitor;*
- (iii) indications or allegations the use of which in the course of trade is liable to mislead the public as to the nature, the manufacturing process, the characteristics, the suitability for their purpose, or the quantity, of the goods.*

-TRIPS Article 16 (1).

-EUTMR Article 60:

*Relative grounds for invalidity*

*1. An EU trade mark shall be declared invalid on application to the Office or on the basis of a counterclaim in infringement proceedings:*

*(a) where there is an earlier trade mark as referred to in Article 8(2) and the conditions set out in paragraph 1 or 5 of that Article are fulfilled;*

*(b) where there is a trade mark as referred to in Article 8(3) and the conditions set out in that paragraph are fulfilled;*

*(c) where there is an earlier right as referred to in Article 8(4) and the conditions set out in that paragraph are fulfilled;*

*(d) where there is an earlier designation of origin or geographical indication as referred to in Article 8(6) and the conditions set out in that paragraph are fulfilled.*

*All the conditions referred to in the first subparagraph shall be fulfilled at the filing date or the priority date of the EU trade mark.*

*2. An EU trade mark shall also be declared invalid on application to the Office or on the basis of a counterclaim in infringement proceedings where the use of such trade mark may be prohibited pursuant to another earlier right under the Union legislation or national law governing its protection, and in particular:*

*(a) a right to a name;*

*(b) a right of personal portrayal;*

*(c) a copyright;*

*(d) an industrial property right.*

*3. An EU trade mark may not be declared invalid where the proprietor of a right referred to in paragraph 1 or 2 consents expressly to the registration of the EU trade mark before submission of the application for a declaration of invalidity or the counterclaim.*

*4. Where the proprietor of one of the rights referred to in paragraph 1 or 2 has previously applied for a declaration that an EU trade mark is invalid or made a counterclaim in infringement proceedings, he may not submit a new application for a declaration of invalidity or lodge a counterclaim on the basis of another of the said rights which he could have invoked in support of his first application or counterclaim.*

*5. Article 59(3) shall apply.*

-Swedish Trademark Act Article 10:<sup>341</sup>

*“A trade mark shall not be registered, if it contains or consists of 1. an element which is liable to be conceived as another party’s trade name, 2. an element which is liable to be conceived as another person’s characteristic surname, generally known artistic name or similar name, if the use of the trade mark would be to the disadvantage of the bearer of the name, and if the name obviously does not relate to a person who is long deceased, 3. a picture of another person that obviously does not relate to a person who is long deceased, or 4. an element which infringes another party’s copyright in a literary or artistic work or another party’s rights in a photographic picture or in a design.”*

### **57. MARCO-test for assessment of conflict of trademarks with copyright**

-Question/Statement:

The character that I see reminds me of video game or a movie.



The test was constructed on the basis of the trademark Marco Macaroni, owned by UAB "AMBER PASTA", registered at the Lithuanian Trademark Office.<sup>342</sup> The trademark includes a character from Super Mario video game owned by Nintendo, designed by Shigeru Miyamoto.

Relevant legislation:

- Paris Convention Article 6quinquies .
- TRIPS Article 16.
- EUTMR Article 60 (2) (c) .

---

<sup>341</sup> English version of the law available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=464161](http://www.wipo.int/wipolex/en/text.jsp?file_id=464161)

<sup>342</sup> More information on the registered trademark is available at the database of the webpage of the Lithuanian IP office: <http://www.vpb.lt/db/rezult3.php?appnum=2005%201788>



## **58. MTHR-test for assessment of conflict of trademarks with a right of personal portrayal**

-Question/Statement:

The picture that I see invokes association to particular person.



The test was constructed on the basis of MAJKA TEREZA trademark application, submitted by SKOVIN Ltd, a wine producer based in Skopje, Macedonia. The trademark was refused by the Macedonian IP office, on the grounds of Article 178 (5) 2 of the Macedonian Industrial Property Law.<sup>343</sup>

Relevant Legislation

--Macedonian IP Law Article 178:

*(1) Trademark may not protect a sign:*

- 1. which is identical with an earlier trademark filed or registered by another right-owner designating the identical kind of goods or services;*
- 2. which is identical with or similar to an earlier trademark, filed or registered by another right-owner designating the same or similar kind of goods or services which would create confusion at the average consumer, including the possibility of association to earlier filed for or registered trademark.*

*(2) Trademark, earlier filed for protection shall be a reason for refusal within the meaning of paragraph (1) of this Article only if it was registered.*

---

<sup>343</sup> English version of the Macedonian Industrial Property Law is available at: [http://www.wipo.int/wipolex/en/text.jsp?file\\_id=437665](http://www.wipo.int/wipolex/en/text.jsp?file_id=437665)

(3) *The term "earlier filed or registered trademark" shall comprise:*

- 1. trademark enjoying priority right under the provisions of this Law;*
- 2. earlier internationally registered trademark with effect in the Republic of Macedonia;*
- 3. trademarks which at the time of filing the trademark application for the sign referred to in paragraph (1) of this Article are well-known in the Republic of Macedonia within the meaning of Article 6-bis of the Paris Convention or Article 16(3) from the TRIPS Agreement.*

(4) *A trademark may not protect also a sign which is identical or similar to an earlier registered trademark to other party, for goods, i.e. services which are neither identical, nor similar to the goods, i.e. services the sign has been reported for, if the earlier registered trademark has reputation in the Republic of Macedonia and if the use of this sign, without justified reason, would represent an unfair competition or would do harm to the distinctive character or the reputation of the trademark.*

(5) *A trademark shall not protect a sign which infringes earlier acquired rights of:*

- 1. The owner of a trademark registered in a country member of the Paris union or WTO, for which the representative in the Republic of Macedonia filed an application without the owners' consent;*
- 2. a natural right-owner whose name and surname or appearance are identical with or similar to the published sign;*
- 3. the owner of an earlier industrial property right, if the subject matter of such right is identical with or similar to the published sign;*
- 4. the right-owner having copyright on the work which is identical with or similar to the published sign.*

## **59. INTD-test for assessment of cybersquatting**

-Question/Statement:

Both domain names are similar:

**www.amazon.com**

**www.amazondeveloper.org**

-Test construction:

For the construction of the question offered to the respondents a dispute resolution case was utilized involving two domain names:

-amazon.com , owned by Creation Date: 1994-11-01, Updated Date: 2014-04-30,<sup>344</sup> and

---

<sup>344</sup> Details on the amazon.com domain: <https://whois.icann.org/en/lookup?name=amazon.com>

-amazondeveloper.org, previously owned by Dynamic Ventures c/o Yitzchak (Itzhak) Ehrlich, 10366 Avenida Lane, Cupertino, CA 95014.

In 2007, Amazon.com, Inc. launched a complaint in accordance with the Uniform Domain Name Dispute Resolution Policy (UDRP) established by the Internet Corporation for Assigned Names and Numbers (ICANN). The complaint was launched at the former National Arbitration Forum, NAF (currently “the Forum”) (Claim Number: FA0711001112201, NAF Jan. 25, 2008).

The parties arguments were:

*“A. Complainant*

*Complainant contends first that Respondent’s domain name is identical to or confusingly similar to Complainant’s well-established mark. Complainant points to the length and strength of its mark, as well as its worldwide trademark registrations. Complainant asserts that the domain name fully incorporates its mark, and that the domain name is confusingly similar to the mark because Internet users will be confused as to whether Respondent is sponsored by or associated with Complainant. Second, Complainant asserts that Respondent has no rights or legitimate interests in the domain name. Complainant asserts that Respondent is not known by the domain name, but instead is known by the name Dynamic Ventures. Additionally, Complainant asserts that Respondent is not using the name in connection with a bona fide offering of goods or services, because it is trading on the fame of Complainant’s mark. Complainant also contends that Respondent is not using the name for legitimate noncommercial purposes. Finally, Complainant contends that the name was registered and is being used in bad faith. Complainant points out that the name was registered with full knowledge of the mark, and that the name was registered, and is being used, in order to attract Internet users, for commercial gain, through creating a likelihood of confusion as to the source or affiliation with Complainant. In short, Internet users would be confused as to whether a website known as <amazondeveloper.org> might be a site owned or endorsed by Amazon.com.*

*B. Respondent*

*Respondent does not dispute the fame of Complainant’s mark, but does contend that there is no likelihood of confusion. Respondent asserts that it is engaged in a bona fide offering of goods and services, and therefore has legitimate rights and interests in the name. Respondent finally contends that it did not register, and is not using the name, in bad faith. Respondent contends that the only way it could be found to have acted in bad faith under the Policy would be if it intentionally attempted to attract Internet users, for commercial gain, to its website by creating a likelihood of confusion as to an affiliation with Amazon.com. No likelihood of confusion, no bad faith. Respondent contends that there is no likelihood of confusion because its website is so different from Complainant’s website. The websites have different color schemes, fonts and layouts. There are no products for sale on Respondent’s website, and no*

*indication that it is related to Amazon.com. Because there could be no confusion, Respondent contends that there can be no finding of bad faith registration or use.*<sup>345</sup>

The panel found that domain name is identical to, or confusingly similar to, Complainant's established mark; the respondent has no rights or legitimate interests in the name; and the respondent registered and is using the name in bad faith. Consequently, the panel ordered that the <amazondeveloper.org> domain name should be transferred from the Respondent (Dynamic Ventures c/o) to the Complainant (Amazon.com, Inc.).<sup>346</sup> Hence the current owner of amazondeveloper.org is Amazon.com, Inc.<sup>347</sup>

#### **60. UDRP-test for evaluation of the Rules for Uniform Domain Name Dispute Resolution Policy**

-Question/Statement:

The UDRP rules are just.

Relevant documents for tests 59 and 60:

- *Uniform Domain Name Dispute Resolution Policy*,<sup>348</sup> paragraph 4:

*"4. Mandatory Administrative Proceeding.*

*This Paragraph sets forth the type of disputes for which you are required to submit to a mandatory administrative proceeding. These proceedings will be conducted before one of the administrative-dispute-resolution service providers listed at [www.icann.org/en/dndr/udrp/approved-providers.htm](http://www.icann.org/en/dndr/udrp/approved-providers.htm) (each, a "Provider").*

*a. Applicable Disputes. You are required to submit to a mandatory administrative proceeding in the event that a third party (a "complainant") asserts to the applicable Provider, in compliance with the Rules of Procedure, that*

*(i) your domain name is identical or confusingly similar to a trademark or service mark in which the complainant has rights; and*

*(ii) you have no rights or legitimate interests in respect of the domain name; and*

*(iii) your domain name has been registered and is being used in bad faith.*

---

<sup>345</sup> The integral text of the NAF decision is available at :

<http://www.adrforum.com/domaindecisions/1112201.htm>

<sup>346</sup> Ibidem

<sup>347</sup> Data on the current status of the domain name:

<https://whois.icann.org/en/lookup?name=amazondeveloper.org>

<sup>348</sup> <https://www.icann.org/resources/pages/policy-2012-02-25-en>

*In the administrative proceeding, the complainant must prove that each of these three elements are present.*

*b. Evidence of Registration and Use in Bad Faith. For the purposes of Paragraph 4(a)(iii), the following circumstances, in particular but without limitation, if found by the Panel to be present, shall be evidence of the registration and use of a domain name in bad faith:*

*(i) circumstances indicating that you have registered or you have acquired the domain name primarily for the purpose of selling, renting, or otherwise transferring the domain name registration to the complainant who is the owner of the trademark or service mark or to a competitor of that complainant, for valuable consideration in excess of your documented out-of-pocket costs directly related to the domain name; or*

*(ii) you have registered the domain name in order to prevent the owner of the trademark or service mark from reflecting the mark in a corresponding domain name, provided that you have engaged in a pattern of such conduct; or*

*(iii) you have registered the domain name primarily for the purpose of disrupting the business of a competitor; or*

*(iv) by using the domain name, you have intentionally attempted to attract, for commercial gain, Internet users to your web site or other on-line location, by creating a likelihood of confusion with the complainant's mark as to the source, sponsorship, affiliation, or endorsement of your web site or location or of a product or service on your web site or location.*

*c. How to Demonstrate Your Rights to and Legitimate Interests in the Domain Name in Responding to a Complaint. When you receive a complaint, you should refer to Paragraph 5 of the Rules of Procedure in determining how your response should be prepared. Any of the following circumstances, in particular but without limitation, if found by the Panel to be proved based on its evaluation of all evidence presented, shall demonstrate your rights or legitimate interests to the domain name for purposes of Paragraph 4(a)(ii):*

*(i) before any notice to you of the dispute, your use of, or demonstrable preparations to use, the domain name or a name corresponding to the domain name in connection with a bona fide offering of goods or services; or*

*(ii) you (as an individual, business, or other organization) have been commonly known by the domain name, even if you have acquired no trademark or service mark rights; or*

*(iii) you are making a legitimate noncommercial or fair use of the domain name, without intent for commercial gain to misleadingly divert consumers or to tarnish the trademark or service mark at issue. “*

- Rules for Uniform Domain Name Dispute Resolution Policy,<sup>349</sup> paragraph 3:

*(ix) Describe, in accordance with the Policy, the grounds on which the complaint is made including, in particular,*

*(1) the manner in which the domain name(s) is/are identical or confusingly similar to a trademark or service mark in which the Complainant has rights; and*

---

<sup>349</sup> Available at <https://www.icann.org/resources/pages/udrp-rules-2015-03-11-en>  
For the rules prior to 2010, see: <http://archive.icann.org/en/dndr/udrp/uniform-rules-24oct99-en.htm>

- (2) why the Respondent (domain-name holder) should be considered as having no rights or legitimate interests in respect of the domain name(s) that is/are the subject of the complaint; and
- (3) why the domain name(s) should be considered as having been registered and being used in bad faith.“

## **61. NARNOT-test for evaluation of the rules for the domain names in the Republic of Macedonia**

-Question/Statement:

The rules for the domain names in the Republic of Macedonia are fair.

Relevant legislation:

Rulebook for organization and administration of the top level Macedonian .mk domain and the top level Macedonian .mkd domain:<sup>350</sup>

*Article 31, paragraph 1:*

*“.....The registrant abuses its domain in a way that by usage or non-usage violates intellectual property, copyright and trademarks according to the legislation”.*

*Article 37, paragraph 1:*

*The parties are directed to solve the disputes appeared from domain registration before the permanent arbitration at MARnet in accordance with the Rulebook for Arbitration at the Macedonian Academic Research Network. The Management Board of MARnet enacts Rulebook for Arbitration Procedure for Dispute Resolution in the cases of domain registration.*

Rulebook for Arbitration Procedure for Dispute Resolution in the cases of domain registration:<sup>351</sup>

*The right to initiate arbitration procedure in accordance with this Rulebook has each third party which considers that its following rights have been violated:*

- The domain name is the same or similar to a third party name entitled with that name;*
- there is a similarity or adequacy between the domain names;*
- the domain user has no right or legitimate interest to use the domain with such name;*
- the domain use is contrary to the principle of good faith.*

---

<sup>350</sup> Available at: <http://marnet.mk/doc/pravilnik-mk-mkd.pdf>

<sup>351</sup> Available at: <http://marnet.mk/doc/arbitrazen-pravilnik.pdf>

## **62.FBINT-test for assessment of the need to establish international rules for Social Media Regulations**

Question/Statement:

Facebook Rules should be established by international regulations.

The test is constructed within the international debate whether or not social media should acquire appropriate legal response in terms of adopting regulations. Concerning the current developments in the debate, the professional and general public has been acquainted with the following views of Mark Zuckerberg, expressed in an interview for CNN,<sup>352</sup> regarding the regulation of Facebook in US legislation:

*“I’m not sure we shouldn’t be regulated....Technology is increasing the important trend in the world. The question is more “what is the right regulation”, rather than “yes or no, should it be regulated” ....On the basic side, there are things like ads transparency regulation that I would love to see. If you look at how much regulation there is around advertising in TV and print, it’s just not clear why there should be less on the internet. You should have the same level of transparency required.....“Most of the stuff in there, from what I’ve seen, is good...We’re building full ad transparency tools; even though it doesn’t necessarily seem like that specific bill is going to pass, we’re going to go implement most of it anyway. And that’s just because I think it will end up being good for our community and good for the internet if internet services live up to a lot of the same standards, and even go further than TV and traditional media have had to in advertising—that just seems logical.”*

## **63.FBMK-test for assessment of the need to enact legislation for Social Media Regulations in Macedonia**

Question/Statement:

Facebook Rules should be enacted by law in Macedonia.

## **64. AWFB-test for assessment of Facebook Rules Awareness**

Question/Statement:

I am familiar with the rules for using Facebook

---

<sup>352</sup> The full CNN interview is available at the YouTube channel:  
<https://www.youtube.com/watch?v=G6DOhioBfyY>

**65. SSQFB -test for assessment of Social Media Cybersquatting awareness (Vanity URL)**

Question/Statement:

The internet address that I see can only belong to NIKE.

www.facebook.com/nike

**66. PRIVFB-test for assessment of social media tagging vs. privacy (photos) opinion**

Question/Statement:

*Tagging photos without my permission is violation of privacy.*

The questions in the above tests (62-66) , from the aspect of trademark law, are constructed having in mind the situations in the past, where in 2009 a new user name as part of a social media user name could be registered, as part of the new user name feature possibility on Facebook. With this, in fact a distinct web address can be created (vanity URL) by any user and the address will have the form www.facebook.com/username. This feature enables creation of vanity URLs that could also include trademarks or personalities' names.

One of the most famous cases in the practice, also in 2009 is the case where anonymous user has crated www.twitter.com/TonyLaR . Antony La Russa. who was in fact a Major League Baseball manager. La Russa litigated Twitter for allowing the author to create La Russa name in bad faith. According to the complaint the Twitter page was act of cybersquatting, which has been defined as the "deliberate bad-faith. and abusive registration of internet domain names in violation of the rights of trademark right holder.<sup>353</sup> Additional representative situations of registered usernames deprived of consent of the trademark owner was myspace.com/Nike.<sup>354</sup>

---

<sup>353</sup> LaRussa v. Twitter Inc. Featured Case. Plaintiff: Anthony LaRussa. Defendant: Twitter Inc. Case Number: 3:2009cv02503. Filed: June 5, 2009. Court: California Northern District Court. Office: San Francisco Office.

<sup>354</sup> Curtin, T.J. (2010). The Name Game: Cybersquatting and Trademark Infringement on Social Media Websites, *Journal of Law and Policy*, 19 (1), 353-394.



Subsequent to these inclinations a novel distinct type of cybersquatting concept emerged : Social Media (Username) Cybersquatting. as a new phenomenon that seems suitable for study both by intellectual property law and information technology law.<sup>355</sup>

Hence, generally, in theory social media cybersquatting includes bad faith registration of a personal name, other than the registrant's as a username on a social networking site (Pesochinsky).<sup>356</sup> Other authors (Curtin) argue that cybersquatting and trademark infringement through username features on social networking sites allows impostors to reserve famous brands as user names to deceptively lure unsuspecting Internet users to an infringing profile.<sup>357</sup>

The main tasks that lawmaking should focus, are the subsequent matters: 1) vanity URLs are not typical domain names; 2) most national IP Laws are deficient in cybersquatting dispute mechanisms ; and 3) UDRP is typically intended for "traditional" cybersquatting, which means that challenged domains are identical and confusingly similar to trademarks & personal names registered or acquired protection trademarks, i.e. there're no adequate provisions on cybersquatting on social media.<sup>358</sup>

Likewise, actual steps should be completed in increasing of the awareness amongst trademark right holders (companies & entities), consumers, general public, regarding the economic, social and "cyber" identity. Changes in applicable industrial property, information technology and telecommunications legislation would develop the concept of "anticybersquatting ", such as the Anticybersquatting Protection Act in the U.S. legislation<sup>359</sup>. The steps could also comprise construction of a reliable international and European legal tools for application of UDRP and other ADR measures.<sup>360</sup>

---

<sup>355</sup> For more theoretical considerations of Cybersquatting in the social networks, see: Naumovski, G., Naumovski, V., Polenak-Akimovska M. (2011). Cybersquatting in the Social Networks: Additional Challenge for Sports Law. *Research in Kinesiology* , 39 (2), 159-163.

<sup>356</sup> Pesochinsky, Z. (2010). Almost Famous: Preventing Username-Squatting on Social Networking Websites, *Cardozo Arts & Entertainment*, 28(1), p.223-253.

<sup>357</sup> Curtin, T.J. (2010). The Name Game: Cybersquatting and Trademark Infringement on Social Media Websites, *Journal of Law and Policy*, 19 (1), 353-394.

<sup>358</sup> Ibid.

<sup>359</sup> Anticybersquatting Consumer Protection Act (ACPA), 15 U.S.C. § 1125(d).

<sup>360</sup> Naumovski, G., Naumovski, V., Polenak-Akimovska M. (2011). Cybersquatting in the Social Networks: Additional Challenge for Sports Law. *Research in Kinesiology* , 39 (2), 159-163.

## Relevant regulations (tests 62-66):

-Statement of Rights and Responsibilities (Terms for Creation of Facebook Account, to which consent is needed by each new user that before creating a new account ), points 2& 5:<sup>361</sup>

### *“2. Sharing Your Content and Information*

*You own all of the content and information you post on Facebook, and you can control how it is shared through your privacy and application settings. In addition:*

*For content that is covered by intellectual property rights, like photos and videos (IP content), you specifically give us the following permission, subject to your privacy and application settings: you grant us a non-exclusive, transferable, sub-licensable, royalty-free, worldwide license to use any IP content that you post on or in connection with Facebook (IP License). This IP License ends when you delete your IP content or your account unless your content has been shared with others, and they have not deleted it.*

*When you delete IP content, it is deleted in a manner similar to emptying the recycle bin on a computer. However, you understand that removed content may persist in backup copies for a reasonable period of time (but will not be available to others).*

*When you use an application, the application may ask for your permission to access your content and information as well as content and information that others have shared with you. We require applications to respect your privacy, and your agreement with that application will control how the application can use, store, and transfer that content and information. (To learn more about Platform, including how you can control what information other people may share with applications, read our Data Policy and Platform Page.)*

*When you publish content or information using the Public setting, it means that you are allowing everyone, including people off of Facebook, to access and use that information, and to associate it with you (i.e., your name and profile picture).*

*We always appreciate your feedback or other suggestions about Facebook, but you understand that we may use your feedback or suggestions without any obligation to compensate you for them (just as you have no obligation to offer them).*

### *5. Protecting Other People's Rights*

*We respect other people's rights, and expect you to do the same.*

*You will not post content or take any action on Facebook that infringes or violates someone else's rights or otherwise violates the law.*

*We can remove any content or information you post on Facebook if we believe that it violates this Statement or our policies.*

*We provide you with tools to help you protect your intellectual property rights. To learn more, visit our How to Report Claims of Intellectual Property Infringement page.*

*If we remove your content for infringing someone else's copyright, and you believe we removed it by mistake, we will provide you with an opportunity to appeal.*

*If you repeatedly infringe other people's intellectual property rights, we will disable your account when appropriate.*

---

<sup>361</sup> Available at: <https://www.facebook.com/legal/terms>

You will not use our copyrights or Trademarks or any confusingly similar marks, except as expressly permitted by our Brand Usage Guidelines or with our prior written permission.

If you collect information from users, you will: obtain their consent, make it clear you (and not Facebook) are the one collecting their information, and post a privacy policy explaining what information you collect and how you will use it.

You will not post anyone's identification documents or sensitive financial information on Facebook.

You will not tag users or send email invitations to non-users without their consent. Facebook offers social reporting tools to enable users to provide feedback about tagging.”

-Facebook Data Policy (Point I),<sup>362</sup> relevant for privacy issues :

*“I. What kinds of information do we collect?*

*Depending on which Services you use, we collect different kinds of information from or about you.*

*-Things you do and information you provide. We collect the content and other information you provide when you use our Services, including when you sign up for an account, create or share, and message or communicate with others. This can include information in or about the content you provide, such as the location of a photo or the date a file was created. We also collect information about how you use our Services, such as the types of content you view or engage with or the frequency and duration of your activities.*

*-Things others do and information they provide. We also collect content and information that other people provide when they use our Services, including information about you, such as when they share a photo of you, send a message to you, or upload, sync or import your contact information.*

*-Your networks and connections. We collect information about the people and groups you are connected to and how you interact with them, such as the people you communicate with the most or the groups you like to share with. We also collect contact information you provide if you upload, sync or import this information (such as an address book) from a device.*

*-Information about payments. If you use our Services for purchases or financial transactions (like when you buy something on Facebook, make a purchase in a game, or make a donation), we collect information about the purchase or transaction. This includes your payment information, such as your credit or debit card number and other card information, and other account and authentication information, as well as billing, shipping and contact details.*

*-Device information. We collect information from or about the computers, phones, or other devices where you install or access our Services, depending on the permissions you've granted. We may associate the information we collect from your different devices, which helps us provide consistent Services across your devices. Here are some examples of the information we collect:*

*-Attributes such as the operating system, hardware version, device settings, file and software names and types, battery and signal strength, and device identifiers.*

---

<sup>362</sup> Available at: [https://www.facebook.com/full\\_data\\_use\\_policy](https://www.facebook.com/full_data_use_policy)

*-Device locations, including specific geographic locations, such as through GPS, Bluetooth, or WiFi signals.*  
*-Connection information such as the name of your mobile operator or ISP, browser type, language and time zone, mobile phone number and IP address.”*

**67.PER-test for assessment of frequency of peer-to-peer file sharing**

Question/Statement:

I download files (music, films, etc.) through programs such as Bit Torrent, Vuze, KaZaa or similar programs.

**68.VSGL-test for assessment of frequency of use of Google search engine**

Question/Statement:

I use the Google search engine, compared to other search engines:

*a) Very often b) often c) average d) rarely e) almost never*

Trademark used for question construction: EUTM 0881006 (GOOGLE), owned by Google Inc.<sup>363</sup>

**69-71. VIP; TMOB; ONE-tests for valuation of telecommunication services**

Question/Statement:

Please value from 1 to 5 the impression that the sign gives to you, concerning the quality of the appropriate mobile network operator

---

<sup>363</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/W00881006>



1 2 3 4 5

1 2 3 4 5

1 2 3 4 5

**72-79. BBR;IPHONE;LGMOB;MTRL;NOKIA;SAMSUNG;SIMENS;SNERC-  
tests for valuation of trademarks for telecommunications products**

Question/Statement:

**Please value from 1 to 5 the impression that the sign gives to you, concerning the quality of the appropriate mobile phone.**

	1	2	3	4	5
	1	2	3	4	5
	1	2	3	4	5
	1	2	3	4	5
	1	2	3	4	5
	1	2	3	4	5
	1	2	3	4	5
	1	2	3	4	5

For the construction of the tests (69-79), in order to determine the quality perception of well-known trademarks of products from the telecommunications market in the Republic of Macedonia quality assessment of mobile operators, eight items refer to the quality assessment of products and services , in this case mobile network operators and mobile phones .

The questions are answered by selecting one of the five offered categories on a scale from one to five, where the higher scores given by the respondents mean higher quality evaluation of well-known trademarks of products and services from the telecommunications market in the Republic of Macedonia.

Theoretically the average score is three, so everything above this is considered higher rating, and everything below is considered lower rating of the quality of the well-known trademarks of products and services from the telecommunications market in the Republic of Macedonia. The eight mobile phones trademarks evaluated are: BlackBerry, iPhone, LG, MOTOROLA, NOKIA, SAMSUNG, SIEMENS, and Sony Ericsson.<sup>364</sup>

Trademarks used for questions construction:

- VIP, owned by Telekom Austria,<sup>365</sup>
- T, Trademark registered at the Macedonian IP Office (MK/T/1995/590), owned by Deutsche Telekom,<sup>366</sup>
- ONE, Trademark registered at the Macedonian IP Office (MK/T/2010/390), owned by One Telecommunication Services.<sup>367</sup>
- Blackberry, EUTM 011882107, owned by BlackBerry Limited, Ontario, Canada.<sup>368</sup>
- iPhone EUTM 006530406, owned by Apple.<sup>369</sup>
- LG, EUTM 0988754, owned by LG Corp, Korea.<sup>370</sup>
- MOTOROLA EUTM 003458676, owned by Motorola Trademark Holdings, LLC.<sup>371</sup>

---

<sup>364</sup> The test is also constructed on the basis of a pilot research in this context, conducted in order to determine the level of quality perception of well-known trademarks of products and services from the telecommunications market in the Republic of Macedonia by consumers of both genders was realized in 2016 by Naumovski & Chapkanov. The main hypothesis of the research was that well-known trademarks of products and services from the telecommunications market in the Republic of Macedonia have high level of quality recognition and association of products and services. For the results see: Naumovski, G., Chapkanov, D. (2016). Empirical Analysis of Trademark Perception of Students Enrolled at Legal and Economic Studies in the Republic of Macedonia. Proceedings of the 9th Annual International Conference of Education, Research and Innovation, Seville, 2016 (pp.7634-7639). International Academy of Technology, Education and Development.

<sup>365</sup> <http://www.wipo.int/madrid/monitor/en/showData.jsp?ROM=1&ID=ROM.0933817>

<sup>366</sup> <http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?appnr=199500590>

<sup>367</sup> <http://ippo.gov.mk/Search/TradeMarkSearchDetails.aspx?appnr=201000390>

<sup>368</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/011882107>

<sup>369</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/006530406>

<sup>370</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/W00988754>

<sup>371</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/003458676>

- NOKIA, EUTM 000323386, owned by Nokia Corporation, Finland.<sup>372</sup>
- SAMSUNG EUTM 000506873, owned by Samsung C&T Corporation, Korea.<sup>373</sup>
- SIEMENS EUTM 0955352, owned by Siemens Aktiengesellschaft, Germany.<sup>374</sup>
- SONY ERICSSON, a Trademark used from 2001 until 2012, after which Sony acquired Ericsson's share in the venture (at the time of the research, the trademark was alive). Current SONY trademark is owned by Sony Corporation EUTM 1194843 .<sup>375</sup>

## 5.2.2. Cognitive abilities and Conative Characteristics Assessment Tests

Besides the TM tests battery, cognitive and conative tests were applied. Three appropriate cognitive tests (KOG 3 battery),<sup>376</sup> were applied for the purpose of assessment of the intellectual abilities of the subjects:

- IT-1, test for assessment of the efficiency of the perceptual processor;
- IT-2, test for assessment of the efficiency of the parallel processor; and
- ALPHA-7, test for assessment of the efficiency of the serial processor.

The **IT-1 test** (test for comparison of pictures) which basis was constructed by Thurstone, is test of the general perceptive factor (a synthesis of primary factors of the perceptive identification, perceptive analysis and perceptive functioning). The tests contains

---

<sup>372</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/000323386>

<sup>373</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/000506873>

<sup>374</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/W00955352>

<sup>375</sup> <https://euipo.europa.eu/eSearch/#details/trademarks/W01194843>

<sup>376</sup> The Cognitive Abilities Test Applied are from the battery developed by Momirovic and his associates. See: Momirovic, K., Bosnar, K. & Horga, S. (1982). Kibernetički model kongitivnog funkconiranja: Pokušaj sinteze nekih teorija o strukturi kognitivnih sposobnosti. [A Cybernetic Model of Cognitive Function: An Attempt at a Synthesis of Certain Theories on the Structure of Cognitive Abilities. In Croatian]; Kineziologija, 14 (5), p.63-82; Macedonian language version tests were used for the respondents . Translation of the tests' questions from Macedonian into English by G. Naumovski.

39 tasks with multiple choice answer in which the respondent needs to identify which of the proposed pictures is identical to the given picture. Working time is limited to 4 minutes.

The **IT-2 test** (general visualisation), for the purpose of estimation of the education of spatial relations in which the respondent should determine which of the 4 three-dimensional geometric shapes proposed, corresponds to the provided draft. The time for this tests is 6 minutes.

The **ALPHA-7** (test of analogy) (based on the construction of Wells) intended for estimation of the verbal comprehension, includes 39 pairs of words; on the basis of the established relation of the proposed words, the respondent should find the word which is in the same relation with the given word. Working time is 3 minutes.

Six tests were applied in order to assess the conative characteristics of the personality of the subjects.<sup>377</sup>

- $\alpha$ -1, test for assessment of the efficiency of the system of regulation and control of the personality defense functions.

- $\chi$ -1, test for assessment of the efficiency of the system of regulation and control of the organic functions;

- $\sigma$ -1, test for assessment of the efficiency of the system of regulation and control the attack reaction;

- $\delta$ -1, test for assessment of the homeostatic regulation system;

- $\eta$ -2, test for assessment of the system of integration of the regulation system;

- $\varepsilon$ -1, test for regulation of the excitatory and inhibitory processes.

---

<sup>377</sup> The Conative Characteristics tests applied are on the basis of: Momirović, K, Horga, S., Bosnar, K.. (1982). Prilog formiranju jednog kibernetičkog modela strukture konativnih faktora. [A Contribution to the Formation of a Cybernetic Model for the Structure of Conative factors. In Croatian]. Kineziologija, 14 (5), p.83-108; Momirović, K., Wolf, B., Džamonja, Z (1998). KON 6 Kibernetička baterija konativnih testova [Cybernetic Battery of Conative Tests. In Serbian]. Centar za primenjenju psihologiju Društva psihologa Srbije: Beograd, p. 9-12. Macedonian language version tests were used for the respondents . Translation of the tests' questions from Macedonian into English by G. Naumovski.



The  $\alpha$ -1 (ALPHA-1) test measures in fact the following features of the respondents (subjects): anxiety, the degree of phobia, obsessiveness, hypersensitivity (emotionality), feeling of guilt (turmoil); impulsiveness, domination-submissiveness (aggressive self-confidence or prepotency). The test contains 30 questions, namely:

- *I often get confused when I have to work fast.*
- *I often lost certain things, because I couldn't decide immediately.*
- *I make more mistakes working when my superior is watching me.*
- *I often get worried that I have done something stupid or improper because of something I said.*
- *I feel uncomfortable when I find myself somewhere alone with no friends.*
- *Before going to bed I carefully lock the door of the flat or the room.*
- *I have to work very slowly in order to be certain that I am doing it right.*
- *There is no way that I would go into some isolated or abandoned building at night.*
- *I often blame myself for not doing certain things that I could have done.*
- *My feelings could be easily hurt.*
- *There have been times when I could not sleep because of worries.*
- *I am afraid of things that other people are usually not afraid of.*
- *It is often hard for me to express what I think.*
- *Often, I feel very lonely for a longer period of time.*
- *I have to admit that there have been times when I would get worried for something not that important.*
- *I often think of accidents that could happen to the people closest to me.*
- *I keep repeating certain words to myself, even though I do not want to do that.*
- *I keep thinking of the meaning of certain words that I have heard or read.*
- *I often regret not making a decision later.*
- *I am constantly afraid that I might do something stupid.*
- *I often feel that I don't feel like doing anything, even though I'm doing well.*
- *I am too reserved so sometimes it is hard for me to defend my rights.*
- *I am definitely not confident enough.*
- *I would like to sit on the bank for a long time and watch the river flow.*
- *It is hard for me to start something.*
- *When I find myself at some high places I feel as if I'm making a leap down.*
- *I keep thinking about things I have started and never finished.*
- *Sometimes my entire body freezes when I find myself in a dangerous situation.*
- *I'm afraid of being alone in the dark.*
- *When I am excited I suddenly feel cold.*

The  $\chi$ -1 (**HI-1**), test for assessment of the efficiency of the system of regulation and control of the organic functions in fact measures: gastrointestinal conversion (fixation to certain symptoms in the gastrointestinal tract, lability of the vegetative system), cardiovascular (sympaticolytic) conversion, hypochondria (fixation of real or imaginal somatic symptoms), sensory conversion (inhibition or hyperexcitation of the primary sensor zones) and motor conversion (converse coordination disorder). The respondents were given 30 statements (questions) to answer:

- *My heart sometimes beats so fast that it feels like it will burst out.*
- *I am in conflict with many people.*
- *There is something wrong with my genitals.*
- *When somebody is having a heart attack, I feel as if I will die.*
- *Few times a week I feel as if something terrible will happen.*
- *After very strenuous work I feel queasy and nauseous.*
- *I fear blushing in a company.*
- *I am sometimes seriously concerned about my health.*
- *From time to time I feel as something is burning in my stomach.*
- *Often it is hard for me to connect my thoughts.*
- *Vulgar words come to my mind and I can't get rid of them.*
- *I frequently get scared at night.*
- *It is problematic for me if I sleep turned to the left or if I do not have sufficiently big pillow under my head.*
- *I get really scared when I feel my heart is beating slowly.*
- *There is something wrong with my senses.*
- *I am more scared than most of the people I know.*
- *People like me for my clumsiness.*
- *I'm certain I have damaged my heart because I have had a lot of excitement in my life.*
- *When in company it is hard for me to think of conversation topics.*
- *I can't eat in the evening, because I already have problems sleeping.*
- *I've been told that it has happened to me to sleepwalk.*
- *My eyes are very sensitive to light.*
- *When I get excited, I get very clumsy.*
- *If I weren't so sickly I would be more successful in life.*
- *Sometimes I feel like breaking stuff.*
- *Sometimes I'm absolutely certain that I'm useless.*
- *My heart sometimes beats fast for no reason.*
- *I often feel bloated.*
- *It has happened to me to forget the name of someone I know well.*
- *I mainly dream bad dreams.*

The  $\sigma$ -1 (**SIGMA-1**) test for assessment of the efficiency of the system of regulation and control the attack reaction evaluates: impulsiveness, aggressiveness, oral aggressiveness, domination/submissiveness and mistrust. Following 30 questions were answered by the subjects:

- *When it is about their interests, people just don't care what's right and what's not.*
- *I frequently use swear words.*
- *Many people think only about using others.*
- *Nobody would say that I'm a calm and serene person.*
- *Most of the people are selfish.*
- *Most of the people are corruptible.*
- *I don't like being ordered.*
- *I had bad grades for my behavior.*
- *Most of the people blame others.*
- *I often get really furious.*
- *Life would be better if various stupid people would not force us to do something we don't want to.*
- *Most of the people are always ready to find a "loop" in the law.*
- *I easily get angry, but it blows over soon.*
- *I often feel like hitting somebody.*
- *Many people make friends because friends could be useful.*
- *I like getting into fights.*
- *Many people get the attention they do not deserve.*
- *When I was a child I often turned school into a game.*
- *Even when people help others, they do it for their personal interest.*
- *I just have to have what I want regardless of the price.*
- *When I don't like someone I can't hide it, and I usually give myself away with some remark or with my conduct.*
- *I can't stand police officers.*
- *A person that does not know how to enjoy life should not be alive.*
- *Most of the people get more from society than what they deserve.*
- *Often not even I can predict how I will react to something that will happen.*
- *I can have almost every woman I like.*
- *I feel capable of leading a gang.*
- *I've been in trouble for not being able to keep my mouth shut when I should have.*
- *People sometimes consider me too proud and stuck up.*
- *I make harsh and sarcastic remarks to people who I believe deserve it.*

The test  **$\delta$ -1 (DELTA-1)**, which aim is to assess the homeostatic regulation system, in fact measures the following latent dimensions: schizoidness, paranoidness, hypomanic dissociation, depressiveness, inhibitory conversion, anal aggressiveness. The respondents were given 30 statements:

- *I have lost my trust in people.*
- *I feel tired of everything.*
- *I don't want any people around me.*
- *Somebody is controlling my thoughts.*
- *Some people hate me because I am too smart for them.*

- *The people that I live among often gossip about me.*
- *I cannot do anything right.*
- *Everything I do I do it wrong.*
- *I am convinced that there is a conspiracy against me.*
- *I'm certain I'm being followed.*
- *What's happening to me is a punishment for my sins.*
- *My enemies are doing things behind my back.*
- *Somebody is trying to influence my thoughts.*
- *If the people were not against me, I would have had more success.*
- *I often feel that people underestimate me.*
- *Sometimes I cannot eat anything for days.*
- *Some people have done me so wrong that I have thought of killing them.*
- *I avoid bigger groups of people whenever I can.*
- *There is nothing in this world that matters to me.*
- *Some unpleasant stuff frequently crosses my mind even though I do not want to think about it.*
- *I do not understand what I read as well as I used to.*
- *If the culprit refuses to admit his/her guilt, s/he should be forced to it.*
- *I lost everything that mattered to me.*
- *I have wasted my life in vain.*
- *I know that I will never be happy again.*
- *My life has been full of tragedies, so I'm sorry that I was even born.*
- *I have never been as miserable as I am now.*
- *I have no desire to do anything.*
- *For me my life lost any sense a long time ago.*
- *I always think that things are not clean.*

The  $\eta$ -2 (ETA-2), test for assesment of the system of integration of the regulation system, is utilized for evaluation of psychastenic dissociation, regressive dissociation, uncooperativeness, ego strength and ergic tension, as latent dimensions. The test is composed of 30 questions:

- *I often dream of events from my childhood.*

- *Bad thoughts and words often come to my mind and it is hard for me to forget about them.*
- *When I get agitated or angry I fall into oblivion.*
- *It has happened to me to freeze because of fear.*
- *I sometimes think that the top of my head is soft.*
- *Often I'm afraid for no reason.*
- *I am so clumsy and absent-minded that I damage stuff around the house.*
- *People tell me I act as a small child.*
- *After a big excitement I get nauseous.*
- *When somebody interrupts me in my thoughts I can't remember what I was thinking about.*
- *I can't eat when I get excited or angry.*
- *It has happened to me few times to add salt instead of sugar in my food, or sugar instead of salt.*
- *It has happened to me to mix up the word order when I'm talking.*
- *It is usually hard for me to find my way around if there is a problem with something I'm doing together with somebody else.*
- *It has happened to me a number of times to get on the wrong train, bus or tram.*
- *I still keep some mementos from my childhood.*
- *Even in a quite normal discussion it is hard for me to say what I want.*
- *I often get a feeling that it is the devil making me do something.*
- *When somebody disagrees with my discussion I often get worked up.*
- *Sometimes I avoid contacts with my friends because I'm afraid I might say or do something bad.*
- *When I feel bad I often think of my mother.*
- *When I'm angry I act as if I don't know anybody.*
- *When I get confused I feel as if I can't think anymore.*
- *Sometimes I get lost so much into my thoughts that I don't notice what's going on around me.*
- *I'm the happiest when I am fantasizing.*
- *I often feel beaten.*
- *People tell me I am absentminded.*

- *I don't want to read the books that I studied from.*
- *I get confused when talking to strangers.*
- *It has happened to me to leave home forgetting to put on some piece of clothes.*

The test for regulation of the excitatory and inhibitory processes **ε-1 (EPSILON-1)**, assesses several latent dimensions: hypomanicness, extraversion, social extraversion, surgency, parmia. The subjects were asked to provide answers their to the following statements:

- *I believe I am a very sociable person who likes going out.*
- *Others think I am mischievous.*
- *I really like being in a noisy and cheerful company.*
- *I gladly participate in big gatherings, like a party or a dance.*
- *I easily blend into a new company.*
- *I think I am talkative.*
- *I like to be in touch with various people.*
- *In a company I would rather talk than keep quiet and go unnoticed.*
- *I am a good company.*
- *I like telling dirty jokes.*
- *I really like being in various companies.*
- *Almost all my relatives like me.*
- *My actions are usually quick and safe.*
- *I like making jokes.*
- *I would not get confused if invited in a certain group to start a discussion or to present an opinion about something I know.*
- *I like making people happy and laugh.*
- *I can speak for hours on end about everything and anything.*
- *I am usually the one making the first step when making new friends.*
- *I like to be in the center of things.*
- *People always laugh at my jokes.*
- *I am inclined at multitasking.*
- *I would like a profession that would give me an opportunity to work with people the whole time.*

- *My everyday life is full of things that interest me.*
- *I like fast rhythms.*
- *I work fast.*
- *I am usually rather careless.*
- *I like shrewd and witty people.*
- *I am always in a good mood.*
- *I am always ready for a good idea.*
- *I almost always have a response to any remark I might get.*

In each test, the respondents had the opportunity to give one of the following answers to the given statements (questions):

- *Absolutely true*
- *Mainly true*
- *Not sure*
- *Mainly untrue*
- *Absolutely true*

All data analysis was realized with SPSS (Statistical Package for Social Sciences).

Following univariate and multiivariate methods are applied for the purpose of data processing:

-basic descriptive statistical parameters (Mean, Standard Deviation, Coefficient of Variability). The Mean will be used for determining the average values of the results of the applied tests. The Standard Deviation for the deviation of the test results in relation to the mean. The Coefficient of Variability was be used for determination of the percentage deviation of the results from the Mean).

-Correlation (Pearson Product Moment Correlation and Spearman's Rank Correlation Coefficient) is used for the purpose of the degree of interdependence among the TM test answers and the cognitive and conative tests.

-Factor Analysis. The factor analysis is utilized for determination of the latent structure existence of the TM test answers and the cognitive and conative test. By this method, the real

existence of classification of trademarks' characteristics (contained in the TM test) is also verified.

-Multivariate Regression Analysis in manifest and latent space. In the manifest space, the cognitive and conative tests are used as predictors, while the TM test is used as a criterion. In the latent space, the isolated factors (latent variables) from the cognitive and conative tests are taken as predictors, while the isolated factor from the TM test is used as criterion.

-Canonical Correlation Analysis in latent space. This method is used between the results of each cognitive test and the TM test results, and between the results of each conative test and the TM test results.



## 6. RESULTS AND DISCUSSION

### 6.1. Basic Descriptive Statistical Parameters for the Trademarks and Cognitive and Conative Variables treated in the Research

At all trademarks tests at all subjects, the weakest result (the theoretical minimum 1) is present. The situation is not identical regarding the maximal results, since there are variables determined that have lower result than the theoretical maximum of the variables of the applied trademark tests. Such variables are: MRT, SNIKE, THOME and UDRP. The first three variables (MRT, SNIKE, THOME) the maximal result is 3, while the variable UDRP is maximal result 4.

Regarding the minimal result at the cognitive variables values of the minimal results are low, but they are above theoretical minimum. Those results are: 6.0 at IT1, 5.0 at IT2 and 4.0 at AL7. Concerning the maximal results, unlike the lowest minimal result present at AL7, AL 7 doesn't have lowest maximal result compared to the IT1 and IT2. IT1 has highest maximal result, which equals the theoretical maximum (39). IT2 has lowest maximal result (31), compared to IT1 and AL7.

The IT1 results show that the subjects have higher results in the recognition of trademarks. On the contrary, the IT2 maximal results are lower than IT1 and AL7. This is an expected real relation of these results, since IT 2 is generally considered as more difficult than IT 1 and AL7, which has also been proven at this population of subjects.

As far as the conative tests and the relations among the tests results are concerned, certain minimal results are similar, but other minimal results significantly differ. For example, the variables HI-1 and SIGMA-1 have identical minimal result (41). On the other hand, the results relations between ETA2 (59) and ALPHA-1 (27) are different. This difference is also present in EPSILON-1, since the minimal result is 31.

Regarding the conative characteristics, the maximal results are similar and in certain cases are overlapping the theoretical maximum. Such tests are: EPSILON-1 (150), HI-1 (150) and ALPHA-1 (150). DELTA-1 has similar value (149) to the values of EPSILON-1, HI-1 and ALPHA-1. Same refers to the test ETA-2, which has a value of 142.

On the other hand, the test SIGMA-1 has the lowest maximal result (145), which shows that aggressiveness as conative feature of the subjects was not maximally manifested while they were evaluating the trademarks characteristics.

Concerning the mean values at the trademark tests, most of them have considerable number of low values (from 1 to 3). Smaller number of means (20 of 147) has values in the range of 3-4. Only 2 of the means have values above 4. Means with values above average are present in the following trademark tests: TXTR (4.01); IPHONE (4.50); and NOKIA (4.36). These results outline that the subjects in the above the tests have shown a hypothetical key determinant that provides exact definition of the trademark characteristics.

The means in the cognitive tests have similar values, i.e. they are above the average at IT-1 (27) and AL-7 (26.7). IT-2 has considerably lower means (16.15). The results from the tests IT-1 and AL-7 used to evaluate the intellectual abilities, preliminary demonstrate that subjects could perceive trademark characteristics in easier manner. This consideration is less apparent for the results from the IT-2 test. The success as IT-2 understandable, since IT-2 is generally regarded as more difficult compared to IT-1 and AL-7. Weaker IT-2 test results indicate lower degree of recognition of trademarks' characteristics by the subjects.

Similar to the cognitive tests, four conative tests have higher means. Those tests are: ETA-2 (110, 48), DELTA-1 (128, 33), HI-1 (121, 63) and ALPHA-1 (97.90). The other two conative tests applied (EPSILON-1 and SIGMA -1) have lower means. The mean in EPSILON-1 is 61.17; while in SIGMA-1 is 88.66. Therefore, these test results (EPSILON-1 and SIGMA-1) would have lower relevance in determining the appropriate influence of conative features on recognition of trademark characteristics.

Subsequent application of regressive and canonical analysis will lead to more precise considerations regarding the influence cognitive abilities and conative characteristics on the successful recognition of trademark characteristics.

Having in mind that standard deviation is an indicator of the objective value of the mean, large number of the standard deviations in the trademark tests has those values, i.e. they are approximately 1/3 of the value of the means. Such standard deviations values are present in the following variables: TXTR (11,13), SNIKE (0,32), LLV (1,15), GLT (0,70); SADID (0,65); TIKVES (0,58); DRAW (1,07), INTED (1,16); UDRP (0,85); NARNOT (0,85); VIP (1,14); TMOB (1,22); ONE (1,23); BBR (1,21); IPHONE (0,89); LGMOB (1, 09); NOKIA (1,03); SAMSUNG (1,02); SIEMENS (1,14).

The values of the standard deviations compared to the objectiveness of the means are visible at all applied cognitive tests. In other words, the standard deviations of the cognitive tests have more favorable values compared to the standard deviations of the trademarks tests, as well as compared to the standard deviations of the conative tests.

The standard deviations of the conative tests have expressively lower values in relation to the values of the standard deviations of the trademark tests and the cognitive tests. Hence, the conative tests' standard deviation values are 30 % of the value of their means. Furthermore, all six conative tests have very similar standard deviation values: EPSILON-1 (13, 88); ETA-2 (18,48); DELTA-1 (18,44); HI-1 (20,38); SIGMA (19,28); ALPHA-1 (22,67). Therefore, the degree of the successful recognition of trademark characteristics by all subjects is homogenous from the aspect of the subjects' conative features.

The values of asymmetry of the results (Skewness) indicate that the results are in general normally distributed. In a small number of tests, the results diverge from the theoretical normal distribution (Gauss curve). The largest part of the tests have Skewness values around 0,00, i.e. the values are in the boundary from -3 to +3. From these tests, the majority of the results have positive values, which means that the positive asymmetry is in the framework of normal distribution.

The Skewness values are from 1,00 to 1,80 in the following trademarks tests: SEC (1,04); RING (1,80); THR (1,33); SNIKE (1,70); JHNS (1,16); YARIS (1,16); JWALK (1, 56); AIRC (1,23); SREDEP (1,44); NICEP (1,11); MXC (1,41); COSEC (1,36); TRMOS (1,21); PINAP (1,18), DANORIG (1,15); NESTTE (1,36); IKEA (1,48); AWFB (1, 04).

Also, the majority of trademarks tests have Skewness values closer to the normal distribution, i.e. from -1 to +1. These values, no matter if they are positively or negatively asymmetric, represent the normal distribution in a higher degree: TWC (0,35); THOME (0, 49); LLV (-0,08); GOOGLE (0, 81); FLA (0, 57); MUS (0, 83); BLB (-0,08); EXTS (0,81); MEKA (0, 62); TXEX (0, 09); FCUK (-0,02); SWEDMI (0, 97); DSG (-0,06); LADYDI (0,07); MUST (-0,04); COLA (-0,78); PERIN (-0,09); SPUMA (-0,88); LADA (-0,48); PICASSO (0, 41); LIVIA (0, 57); ZTRL (0, 03); DVDF (0,32); DRAW (0,26); INTD (0, 21); UDRP (-0,05); NARNOT (0, 47); FBINT (0,30); FBMK (0,09); SSQFB (0, 93); PRIVFB (0,87); PER (0,27); VIP (-0,61); TMOB (-0, 98); ONE (-0,07); BBR (-0,72); MTRL (0,58); SAMSUNG (-0, 75); SNERC (-0,74).

The results with negative asymmetry in the trademark tests (from -1 to -1.59), are less present in general, as well as less present in relation to the corresponding results with positive asymmetry (from 1 to 1.80). Such results are: TXTR (-1,07); LGMOB (-1,16); NOKIA (-1, 59).

Results with Skewness values that deviate from the normal distribution (above +0,3) are insignificantly present. The situation with the values of these tests doesn't affect in a negative way on the general normal distribution of the results of the trademark tests. This deviation has only positive asymmetry, which is defined by the following tests: AROMA (3,31); HPCOM (3,54); MPT (5,04); SADID (4,23); ONERE (4,02); VSGL (4,47). These figures indicate asymmetrical grouping of the results in the zone of lower values of the Gauss curve, which can be interpreted as weaker results in terms of estimation of recognition of the characteristics of the trademarks with test results above +0.3.

Regarding cognitive and conative tests Skewness values, there is a lower deviation from the normal distribution results, compared to the normal distribution of trademark tests results. In these cases, there is practically no asymmetry expressed in the results. In all cognitive and conative tests, Skewness values are from 0 to +3 and from 0 to -3. More favorable distribution of these results (around 0) is noted in the following cognitive and conative tests: IT-1 (-0, 46); IT-2 (0, 20); ETA-2 (-0,23); HI-1 (-0,91); SIGMA-1 (0,23); ALPHA-1 (0, 02). Only three tests have Skewness values between 1 and 1, 53: ALPHA-7 (-1, 25, EPSILON-1 (1, 53); and DELTA-1 (1, 48).

The indicator for Kurtosis from the trademark test results, to larger extent points out that those results don't deviate significantly from the normal distribution. Most of the results (47) in all trademarks' tests have leptokurtic form (from 0 to -1 and from 0 to +1). This means that the knowledge for estimation of trademark tests in the group is homogenic, i.e. the results by the subjects in each test are close to the mean.

The results that represent the platykurtic distribution are positive or negative numbers greater than 3 (above +3 and less than -3). There are 16 platykurtic results: AROMA (12,9), HPCOM (16,42); MPT (16,42); SNIKE (25,67); GLT (8,69); JWALK (19,45); TIKVES (11, 25); PLST (4,69); ONERE (20,22); FRSIM (6,84); CROSS (4,92); INS (4,22); MARCO (5,32); MTHR (6,30); VSGL (24, 07); IPHONE (4,58).

The platykurtic results (16) are less than the results that represent the leptokurtic distribution (47). The 16 platykurtic results are heterogenic and differ from the normal

distribution of the results. Since all of 16 results have positive values (highly extreme above the mean), the results outline the higher level of subjects' recognition of the characteristics of these 16 trademarks.

As far as Kurtosis values in cognitive and conative test results are concerned, they are similar with the Skewness results, in the context of the normal distribution. The results from the cognitive test IT-1 (0,75) and the conative tests ETA-2 (-0,49), SIGMA-1 (0,24); ALPHA-1 (-0,37) and HI-1 (1,43) have leptokurtic form of distribution. The cognitive IT-2 (2,40) and the conative DELTA-1 (3,70) test results show mesokurtic form of distribution (positive values close to the normal distribution). Only the EPSILON-1 test result (7,49) represents platykurtic form of distribution.

According to the Skewness and Kurtosis results from all tests (acceptable tolerances), it could be generally noted that the results obtained are satisfactory from the aspect of the normal distribution. Therefore, it was not necessary to transform the trademark, cognitive and conative tests results (as qualitative data), with a standardization statistical procedure, such as the z-values method.

Due to these results, it is methodologically justified to conduct subsequent processing of data with the prescribed multivariate methods. More specifically, it was not indispensable to apply the Kolmogorov-Smirnov method for testing of data from all applied trademarks, cognitive and conative tests. In favor of this is the fact that there are other methodological and statistical prerequisites fulfilled, such as the size of the sample (above 200). Furthermore, although the data are qualitative, due to the sample size as well as because of the random selection of the sample, a frequent, it is considered that the qualitative data from the applied tests have real and objective multivariate normal distribution. In this context are the Skewness and Kurtosis results obtained in this research, having in mind that those results are also taken into account by the Kolmogorov Smirnov method.

**Table 1 : Descriptive Statistics**

	N	Minimum	Maximum	Mean	Std. Deviation	Skewness	Kurtosis
	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic	Statistic
TXTR	206	1.00	5.00	4.0146	1.12392	-1.070	.471
SEC	206	1.00	5.00	1.8544	1.07211	1.038	.108
AROMA	206	1.00	5.00	1.2476	.64154	3.306	12.900
RING	206	1.00	5.00	1.5728	.97882	1.795	2.647
THR	206	1.00	5.00	1.8786	1.29909	1.333	.480
TWC	206	1.00	5.00	2.7476	1.25887	.354	-.817
HPCOM	206	1.00	5.00	1.2330	.58774	3.540	16.417
MPT	206	1.00	3.00	1.0680	.32043	5.037	25.670
SNIKE	206	1.00	3.00	1.3058	.56626	1.704	1.914
THOME	206	1.00	3.00	1.7087	.71405	.493	-.924
LLV	206	1.00	5.00	3.2524	1.14949	-.079	-.523
JHNS	206	1.00	5.00	1.8301	1.02898	1.160	.718
YARIS	206	1.00	5.00	1.8252	1.12555	1.158	.287
GLT	206	1.00	5.00	1.3252	.69566	2.708	8.685
SADID	206	1.00	5.00	1.1942	.64857	4.230	19.445
JWALK	206	1.00	5.00	1.6359	1.10805	1.564	1.181
GOOGLE	206	1.00	5.00	2.0243	.99970	.809	.136
TIKVES	206	1.00	5.00	1.2524	.57963	2.948	11.248
FLA	206	1.00	5.00	2.2330	1.12362	.571	-.373
PLST	206	1.00	5.00	1.4612	.88121	2.192	4.692
AIRC	206	1.00	5.00	1.7184	.90438	1.227	1.089
ONERE	206	1.00	5.00	1.1602	.50226	4.016	20.218
SREDEP	206	1.00	5.00	1.7621	1.06690	1.437	1.368
NICEP	206	1.00	5.00	1.9951	1.08873	1.109	.590
MXC	206	1.00	5.00	1.7136	1.08223	1.407	.955
COSEC	206	1.00	5.00	1.7864	1.08336	1.364	1.173
MUS	206	1.00	5.00	1.9563	.94380	.826	.308
TEFLON	206	1.00	5.00	2.9854	1.43298	.116	-1.152

TRMOS	206	1.00	5.00	1.9175	1.15947	1.205	.745
BLB	206	1.00	5.00	3.1602	1.28350	-.080	-1.000
EXTS	206	1.00	5.00	2.2184	1.35281	.814	-.573
MEKA	206	1.00	5.00	2.3252	1.21617	.619	-.528
TXEX	206	1.00	5.00	2.8252	1.16809	.086	-.740
FCUK	206	1.00	5.00	3.0388	1.27583	-.016	-1.004
PINAP	206	1.00	5.00	2.0097	1.36146	1.177	.038
DANORIG	206	1.00	5.00	2.0437	1.30778	1.147	.177
FRSIM	206	1.00	5.00	1.4029	.81916	2.520	6.843
CROSS	206	1.00	5.00	1.4806	.79456	2.038	4.916
SWIDMI	206	1.00	5.00	2.2136	1.32629	.969	-.202
DSG	206	1.00	5.00	3.0777	1.56915	-.061	-1.524
LADYDI	206	1.00	5.00	2.6602	1.23014	.070	-.921
NESTTE	206	1.00	5.00	1.8641	1.19387	1.360	.820
MUST	206	1.00	5.00	3.2524	1.25109	-.036	-1.107
BUHL	206	1.00	5.00	2.8447	1.07981	.220	-.635
COLA	206	1.00	5.00	3.9126	1.06480	-.779	-.135
INS	206	1.00	5.00	1.5243	.76947	1.832	4.220
PERIN	206	1.00	5.00	3.5146	1.11192	-.091	-1.023
SPUMA	206	1.00	5.00	4.0534	.98380	-.884	.323
LADA	206	1.00	5.00	3.8252	1.00658	-.483	-.354
IKEA	206	1.00	5.00	1.7427	.90894	1.477	2.332
PICCASO	206	1.00	5.00	2.7524	1.07380	.413	-.415
MAGI	206	1.00	5.00	3.6359	1.11244	-.272	-.877
LIVIA	206	1.00	5.00	2.4806	1.20855	.565	-.615
ZTRL	206	1.00	5.00	3.1505	1.10505	.027	-.658
DVDF	206	1.00	5.00	3.0340	1.17029	.321	-.953
DRAW	206	1.00	5.00	3.0146	1.06601	.264	-.754
MARCO	206	1.00	5.00	1.4854	.89839	2.265	5.322
MTHR	206	1.00	5.00	1.3883	.89697	2.592	6.299
INTD	206	1.00	5.00	3.0388	1.15545	.211	-.854
UDRP	206	1.00	4.00	2.2621	.84923	-.048	-.859
NARNOT	206	1.00	5.00	2.4806	.85375	.465	.114

FBINT	206	1.00	5.00	2.6019	1.33135	.298	-1.016
FBMK	206	1.00	5.00	2.9029	1.36874	.085	-1.159
AWFB	206	1.00	5.00	2.0194	.97761	1.036	.851
SSQFB	206	1.00	5.00	2.1650	1.32589	.923	-.381
PRIVFB	206	1.00	5.00	1.9417	1.08942	.871	-.248
PER	206	1.00	5.00	2.7136	1.40747	.266	-1.188
VSGL	206	1.00	5.00	1.1456	.50186	4.474	24.073
VIP	206	1.00	5.00	3.6748	1.13311	-.613	-.302
TMOB	206	1.00	5.00	3.9709	1.21740	-.976	-.116
ONE	206	1.00	5.00	3.0146	1.22764	-.060	-.820
BBR	206	1.00	5.00	3.7670	1.21136	-.724	-.455
IPHONE	206	1.00	5.00	4.5000	.89306	-2.116	4.575
LGMOB	206	1.00	5.00	3.2233	1.08589	-.155	-.490
MTRL	206	1.00	5.00	2.2767	1.05744	.576	-.114
NOKIA	206	1.00	5.00	4.3592	1.02509	-1.590	1.629
SAMSUNG	206	1.00	5.00	3.9417	1.02005	-.746	.037
SIMENS	206	1.00	5.00	2.6408	1.10303	.243	-.538
SNERC	206	1.00	5.00	3.7282	1.14077	-.744	-.118
IT_1	206	6.00	39.00	27.0728	6.30211	-.463	.450
IT_2	206	5.00	31.00	16.1505	4.28061	.202	.753
AL_7	206	4.00	37.00	26.7427	5.04002	-1.253	2.396
EPSILON_1	206	31.00	150.00	61.1650	13.88391	1.526	7.492
ETA_2	206	59.00	148.00	110.4757	18.48498	-.227	-.486
DELTA_1	206	46.00	149.00	128.3252	18.43819	-1.478	3.698
HI_1	206	41.00	150.00	121.6262	20.37744	-.912	1.434
SIGMA_1	205	41.00	145.00	88.6634	19.27914	.233	.242
ALFA_1	205	27.00	150.00	97.9024	22.67006	.015	-.373
Valid (listwise)	N 204						



## 6.2. Factor Analysis

### 6.2.1. Inter-Correlation of Trademark Variables

Table 2 shows the correlations of treated variables for estimation of their characteristics. Out of 3081 correlations, 408 are positive statistically significant, while 68 are Negative Statistically significant. All correlations (both positive and negative), are defined as statistically significant, since their values are above +/- 13.8 at the level of significance of 0, 05 (5%). Therefore, it can be determined that the coefficients in 95% have positive or negative statistical significance.

In that context, it can also be noted that the coefficients with positive statistical significance are generally higher than the coefficients with negative statistical significance. The values of the positive statistical significance coefficients are up to 0, 51, while the negative statistical significance coefficients are up to -0, 25.

More expressed positive statistical significance coefficients are noted between the following variables: NARNOT and FBMK (0, 51); ZTRL and DRAW (0, 49); COLA and SPUMA (0, 49); PERIN and SPUMA (0, 48).

Highest statistically significant negative coefficients are present between the variables TIKVES and IPHONE (-0, 25); TRMOS and VIP (- 0, 25); and between ONERE and IPHONE (-0, 24).

This relationship of the higher number of positive statistical significance coefficients show higher degree of similarity of the variables treated in the same (positive) direction. The subjects therefore showed similar recognition of the majority of the variables (variables that are similar in structure and definition are similarly recognized by the subjects). The relationship is contrary at the variables that have negative statistically significant coefficients.

The correlation matrix table also shows multiple grouping of correlation coefficients at certain variables, which enables methodologically justified application of factor analysis that is featured by reasonable interpretation of isolated factors (latent dimensions) during definition of trademark characteristics. Such mutual correlation grouping (especially of positive statistical significance correlation coefficients) is noted at the following variables:

- SEC, AROMA, RING, TWC, HPCOM, MRT, SNIKE, THOME, LLV, JHNS, YARIS, GLT, SADID, JWALK (Group 1);

-PLST, AIRC, ONERE, SREDEP, NICEP, MXC, SEC, MUST, TEFLON, TRMOS, EXTS, MEKA, TXEX (Group 2);

-PICASSO, LAVIA, ZTRL, DVDF, MTXR, UDRP, NARNOT, FBNT, FBMK (Group 3);

-BUHL, COLA, INS, PERIN, SPUMA, LADA, IKEA, PICASSO, MAGI, LIVIA, ZTRL, DVDF, DRAW, MARCO, MTXR, UDRP (Group 4);

-DRAW, MARCO, MTXR, UDRP, NARNOT (Group 5).

-TMOB, ONE, BBR, IPONE, LGMOB, MTRL, NOKIA, SIEMENS, SNERC (Group 6).

Other variables groupings exist, but they are not that evident.

Having in mind that most variables have statistically insignificant coefficients at the level of 0,05 (values bellow  $\pm 13.8$ ), it can be noted that the two variables are not statistically significantly dependent.

From the aspect of the aim of the research, this would mean that the similarity of variables (defining of trademark characteristics in terms of recognition) is more difficult by the subjects, since either recognition in these cases is not determined by same abilities or features of the subjects, or due to other factors (education, previous awareness on trademarks).

From the methodological point of view, the non-existence of dependence of two variables, directs to hypothetical existence of independent, i.e. different factors (latent dimensions), that could be classified as different trademark characteristics. Thus, independent correlations would lead to independent factors and furthermore to independent trademark characteristics as input to the contribution of the research.

**Table 2: Inter-Correlation of Trademark Variables**

	TXTR	SEC	AROMA	RING	THR	TWC	HPCOM	MPT	SNIKE	THOME	LLV	JHNS	YARIS	GLT	SADID
TXTR	1,00	,07	-,05	,03	-,02	,15	,05	,06	-,05	-,01	,14	,16	,10	-,11	-,14
SEC	,07	1,00	,16	,22	,04	-,15	,34	,07	,16	,08	-,01	,18	,15	,16	,01
AROMA	-,05	,16	1,00	,17	,09	,01	,20	,01	,10	,12	-,12	,22	,12	,07	,02
RING	,03	,22	,17	1,00	-,04	,11	,05	,20	,19	,05	,04	,25	,10	,10	,08
THR	-,02	,04	,09	-,04	1,00	-,10	,17	,03	-,04	-,03	,08	,06	,01	,14	,08
TWC	,15	-,15	,01	,11	-,10	1,00	,01	,08	,01	,04	,32	,14	,19	-,01	-,16
HPCOM	,05	,34	,20	,05	,17	,01	1,00	,05	,09	-,01	-,05	,28	,16	,12	-,02
MPT	,06	,07	,01	,20	,03	,08	,05	1,00	,18	,24	-,07	,21	,26	,23	,17
SNIKE	-,05	,16	,10	,19	-,04	,01	,09	,18	1,00	,19	-,17	,12	,26	,20	,05
THOME	-,01	,08	,12	,05	-,03	,04	-,01	,24	,19	1,00	,01	,12	,09	,03	,06
LLV	,14	-,01	-,12	,04	,08	,32	-,05	-,07	-,17	,01	1,00	,09	,09	-,07	,03
JHNS	,16	,18	,22	,25	,06	,14	,28	,21	,12	,12	,09	1,00	,25	,10	,08
YARIS	,10	,15	,12	,10	,01	,19	,16	,26	,26	,09	,09	,25	1,00	,28	,14
GLT	-,11	,16	,07	,10	,14	-,01	,12	,23	,20	,03	-,07	,10	,28	1,00	,25
SADID	-,14	,01	,02	,08	,08	-,16	-,02	,17	,05	,06	,03	,08	,14	,25	1,00
JWALK	-,02	,23	,26	,33	,19	,11	,24	,25	,47	,16	-,03	,27	,31	,25	,12
GOOGLE	,12	,03	,07	,19	,09	,01	,05	,12	,15	-,03	,07	,01	,22	,05	,11
TIKVES	-,07	,03	,13	,06	,04	,03	,13	,01	,00	,06	,12	,13	,02	,09	,30
FLA	,06	-,06	,04	,00	-,04	,04	-,05	,02	,03	,19	,13	,14	,09	,11	,02
PLST	-,02	,05	,18	,06	-,04	,04	,03	-,04	,05	,06	,09	,07	,10	,11	,12
AIRC	-,01	,09	,24	,14	,02	,05	,11	,07	,07	,22	,15	,22	,05	,04	-,01
ONERE	-,05	,00	,25	,05	,01	-,02	,01	-,07	-,07	,09	,04	,07	-,02	,06	-,07
SREDEP	-,09	-,03	,11	-,07	,04	-,01	-,04	-,14	,09	-,04	,12	,09	,12	,03	-,07
NICEP	-,07	-,02	,08	-,02	-,08	-,08	-,01	-,05	-,16	-,05	,09	,01	,02	-,07	-,03
MXC	-,05	,12	,12	,09	,10	,02	,07	-,03	-,02	,03	,18	,11	,11	-,07	,15
COSEC	,03	-,14	,08	-,07	,02	,08	-,07	,00	-,02	,00	,14	-,06	-,03	,03	,00

MUS	-.03	,09	,21	,13	,02	-.03	,01	-.05	,01	,04	,13	,11	-.08	-.06	,09
TEFLO N	-.10	-.13	-.05	-.09	,08	,08	-.07	-.02	-.05	,01	,14	,01	,01	,04	,05
TRMOS	,06	,03	,04	,06	,13	,04	,19	-.01	,05	,03	,17	,11	,03	,06	-.01
BLB	,02	,10	-.01	-.01	-.04	,02	,07	,01	,04	,07	,01	,06	,09	,10	-.04
EXTS	-.03	,09	,02	-.09	,07	,00	,00	-.08	-.05	-.07	,09	,03	,05	,02	,01
MEKA	-.17	,14	-.02	-.03	,05	,03	,04	-.01	,02	,09	,17	-.02	-.01	,17	,03
TXEX	-.06	-.02	-.08	-.07	-.01	,12	,07	-.03	-.18	-.08	,16	,00	-.01	-.03	-.01
FCUK	,03	-.01	,02	-.10	,11	,00	,01	,04	,07	-.03	,10	,01	-.01	,07	,03
PINAP	-.04	,06	-.08	-.05	,09	-.04	,07	-.02	-.04	,10	-.01	-.01	-.04	,17	,06
DANOR IG	,05	-.03	-.11	-.08	,08	,02	,04	-.08	-.04	-.10	,10	-.06	-.07	-.09	,08
FRSIM	-.01	,16	,12	,12	,09	,08	,09	,08	,04	,03	,07	,01	,15	,01	,25
CROSS	,04	,05	,07	,03	-.02	,05	,14	,06	,02	,04	,09	,14	,07	,03	,04
SWIDM I	-.04	,02	,06	,04	,11	-.09	-.03	,07	,07	,04	,14	,04	,06	,05	,14
DSG	,09	,13	,03	-.12	,09	,15	,05	-.10	-.13	-.01	,22	,03	,02	,01	-.04
LADYD I	,00	,02	-.03	,13	,08	,02	,09	,07	,02	,19	,15	,06	,00	,06	,04

---

	TXTR	SEC	AROMA	RING	THR	TWC	HPCOM	MPT	SNIKE	THOME	LLV	JHNS	YARIS	GLT	SADID
NESTT E	-.06	-.07	,10	,07	,02	-.06	-.07	,09	,21	,19	-.13	,10	,04	,06	,02
MUST	-.03	,03	-.01	,05	,07	-.03	,03	,07	-.06	,12	,08	,06	,01	-.07	,05
BUHL	,08	-.02	,01	,02	,02	,14	,05	,14	,01	,04	,09	,05	,11	,16	,14
COLA	,16	-.02	-.15	-.01	-.01	,07	-.02	,05	,03	,07	,08	,13	,03	-.15	,04
INS	-.04	,14	,14	,09	-.01	-.05	,06	,07	,10	,14	-.05	,05	,00	,08	,00
PERIN	,00	-.04	-.06	,07	,09	-.08	-.04	,11	,12	,15	,09	,02	,01	-.12	,05
SPUMA	,05	-.05	-.05	-.05	-.04	,05	-.08	-.04	-.03	,01	,20	-.05	-.05	-.16	-.02
LADA	,01	,00	-.03	,05	,01	,00	,06	,10	,12	,04	,11	,07	,12	,04	,07

IKEA	,00	,02	,09	,02	,06	-,04	,00	,06	,05	,14	-,11	,05	-,01	-,02	-,01
PICCAS O	,10	-,02	,00	-,02	,01	,03	,05	,11	,12	,13	,13	,13	,08	,03	,02
MAGI	,00	,00	,07	,06	-,02	-,01	,00	,03	,08	,04	,09	,10	,06	-,05	,08
LIVIA	,07	,09	,04	,01	,04	,03	,06	,02	-,03	,08	,18	,06	,09	,18	-,03
ZTRL	,03	-,16	-,03	-,05	,02	-,01	-,08	,05	-,11	,01	,21	-,05	-,07	-,02	-,10
DVDF	-,13	,06	,00	,08	,13	-,05	,02	,14	,10	,08	,05	,04	,00	,05	,06
DRAW	,03	,02	-,03	,11	,06	,00	-,02	,08	,05	,02	,13	,01	-,06	,01	,04
MARC O	,04	,07	,08	,10	-,05	,09	,07	-,03	,05	-,08	,03	-,03	-,03	-,01	-,05
MTHR	,03	,04	,15	,05	,08	-,09	-,02	-,04	-,03	,03	,07	-,01	-,13	,03	-,01
INTD	-,16	-,09	-,11	,00	-,02	,03	-,12	-,06	,06	-,11	,03	-,16	-,03	,05	,04
UDRP	-,04	-,01	,18	-,01	,07	,06	,10	-,03	,19	,21	,06	,05	,10	,11	,04
NARNO T	-,01	,17	,10	-,03	,10	-,10	,13	,04	-,01	,14	,02	,11	,08	-,02	-,02
FBINT	,10	,00	,00	,01	,00	-,01	,06	,10	,04	,09	,07	,06	,12	,01	,12
FBMK	-,05	-,07	-,04	,01	-,02	,15	-,01	,15	,00	,09	,11	,08	,09	,01	,01
AWFB	,08	-,09	-,10	-,07	,01	,12	,11	-,08	,01	-,10	,10	-,01	,00	-,04	-,11
SSQFB	-,04	-,05	,05	-,07	,02	,00	-,01	-,04	,05	-,03	,07	-,07	-,01	-,05	,07
PRIVFB	-,13	-,03	-,06	-,03	,00	-,05	-,04	,05	-,06	-,05	-,01	-,08	-,10	,07	-,04
PER	,02	,17	,06	,02	,07	-,11	,13	,02	,02	-,03	-,01	-,02	,07	,03	-,09
VSGL	-,12	,12	,13	,09	,00	-,06	-,07	-,03	,07	,01	-,05	-,04	-,02	,05	,02
VIP	,01	,05	,08	,04	,03	-,03	-,07	,07	,13	-,08	-,17	-,03	-,06	-,05	-,06
TMOB	-,04	,06	-,03	-,07	-,11	,03	,00	-,06	-,10	-,13	-,03	-,08	,02	-,08	-,12
ONE	,04	,05	,04	-,03	-,01	,08	,00	-,01	-,03	-,01	-,14	,03	-,09	-,06	-,06
BBR	-,09	-,19	-,07	-,04	-,05	,03	-,09	,04	-,01	-,14	-,08	-,05	,00	,03	-,13
IPHON E	-,01	-,10	-,22	-,06	-,04	,00	-,07	-,07	-,10	-,06	-,03	-,07	-,02	-,13	,01
LGMO B	-,11	,07	,22	,12	,08	,00	,09	,04	,09	,04	-,09	,02	,02	,04	,05
MTRL	-,02	-,04	,19	-,02	-,02	-,04	,00	,05	,07	-,08	-,15	,00	-,06	,08	,01
NOKIA	,00	-,05	-,12	-,16	,07	,04	-,12	,01	-,04	-,06	-,02	-,01	,01	-,06	,00
SAMSU NG	,05	,12	-,04	-,01	-,05	,04	,01	-,05	-,05	,13	-,11	,02	-,01	-,17	-,16

SIMENS	,12	,05	-,03	-,04	,01	-,08	,02	,04	-,03	-,11	-,04	-,11	-,02	,00	-,07
SNERC	,06	,04	-,14	,07	,08	,05	,04	,09	-,01	-,04	,05	-,05	-,04	,05	,00

	JWALK	GOOGLE	TIKVES	FLA	PLST	AIRC	ONERE	SREDEP	NICEP	MXC	COSEC	MUS	TEFLON	TRMOS	BLB
JWALK	<b>1,00</b>	,20	,05	,12	,09	,16	,00	,03	-,06	,10	,01	,07	,01	,07	,06
GOOGLE	,20	1,00	,12	-,10	-,07	-,06	-,04	-,01	-,02	-,01	-,01	,04	,10	,06	,02
TIKVES	,05	,12	1,00	,07	,11	,09	,20	,03	,16	,08	,21	,15	,06	,12	-,03
FLA	,12	-,10	,07	1,00	,30	,28	,09	,23	,09	,06	,05	,17	,09	,01	,13
PLST	,09	-,07	,11	,30	1,00	,26	,24	,15	,19	-,03	,10	,16	,09	,20	-,02
AIRC	,16	-,06	,09	,28	,26	1,00	,25	,25	,20	,13	,09	,31	,11	,18	-,08
ONERE	,00	-,04	,20	,09	,24	,25	1,00	,34	,27	,17	,21	,29	-,04	,07	,01
SREDEP	,03	-,01	,03	,23	,15	,25	,34	1,00	,22	,25	,15	,19	,25	,17	,08
NICEP	-,06	-,02	,16	,09	,19	,20	,27	,22	1,00	,17	,04	,28	,18	,06	-,04
MXC	,10	-,01	,08	,06	-,03	,13	,17	,25	,17	1,00	,13	,23	,15	-,03	-,02
COSEC	,01	-,01	,21	,05	,10	,09	,21	,15	,04	,13	1,00	,31	,07	-,07	,08
MUS	,07	,04	,15	,17	,16	,31	,29	,19	,28	,23	,31	1,00	-,03	,01	-,02
TEFLON	,01	,10	,06	,09	,09	,11	-,04	,25	,18	,15	,07	-,03	1,00	,15	,05
TRMOS	,07	,06	,12	,01	,20	,18	,07	,17	,06	-,03	-,07	,01	,15	1,00	,06
BLB	,06	,02	-,03	,13	-,02	-,08	,01	,08	-,04	-,02	,08	-,02	,05	,06	1,00
EXTS	,00	,07	-,04	,06	,07	-,01	,13	,16	,20	,18	,01	,11	,10	,04	,07
MEKA	,02	,04	,11	,07	,02	,05	,07	,10	-,03	,14	,20	,04	,09	,08	,25
TXEX	-,02	,10	,02	,06	,00	,15	,00	,14	,26	,08	,14	,13	,16	,03	,11
FCUK	,11	,04	-,03	,07	-,08	-,12	-,01	-,02	-,01	,07	,09	,10	-,03	-,04	,24
PINAP	,00	,00	-,02	,03	,08	,09	,10	,13	-,04	,01	,02	,04	,12	,05	,08
DANORIG	-,01	,06	,03	,09	,10	,12	,09	,10	,07	,14	,04	,14	,06	-,02	-,04

FRSIM	,13	,15	,08	-,01	-,01	,11	,07	,00	-,01	,17	,03	,16	-,07	,04	,00
CROSS	,09	,16	,08	,07	,04	,09	,10	,11	-,02	,13	,06	,05	,02	-,02	,01
SWIDM I	,09	,13	-,01	-,01	,00	,10	-,07	,05	-,07	,07	,12	,13	,03	,01	-,01
DSG	-,05	-,09	-,06	,00	,03	,12	-,01	,08	,13	,12	,02	,06	,24	,08	,04
LADYD I	,04	,10	,11	,00	,09	-,02	,05	-,03	-,03	-,01	,10	,10	-,07	,16	,16
NESTT E	,23	,10	-,06	,22	,08	,24	,00	,24	-,04	,06	-,01	,06	,05	,05	,05
MUST	,01	,04	,07	,06	,15	,24	,03	-,04	,10	,06	,10	,16	,09	,09	,14
BUHL	-,01	,06	,07	-,13	,03	-,04	-,06	,03	,02	,12	,09	,06	,10	,06	-,02
COLA	-,01	,08	-,01	-,02	-,02	,09	-,12	-,02	-,09	-,01	,11	-,01	,15	,09	,16
INS	,12	,08	,06	,02	,08	,12	,22	-,05	-,07	,05	,11	,09	-,09	,03	,03
PERIN	,12	,09	-,02	,04	,01	,11	-,10	-,09	-,05	-,02	,08	,03	,04	,10	,09
SPUMA	-,08	,04	-,08	,02	,02	,07	-,06	-,06	,06	-,05	,00	-,02	,11	,07	,09
LADA	,10	,08	-,06	,03	-,04	,09	-,04	-,05	-,16	,03	,05	,05	-,05	,08	,01
IKEA	,04	,00	,04	-,05	-,06	,11	,08	,04	-,01	,07	-,02	,09	-,03	-,03	,00
PICCAS O	,07	,02	,06	,19	,15	,22	,07	,17	,04	-,01	,20	,11	,01	,07	,07
MAGI	,03	,00	,00	,00	,07	,13	,04	,02	,04	,03	,08	,09	-,02	,07	,02
LIVIA	,11	,05	,03	,19	-,01	,12	,15	,06	,05	,17	,03	,18	,04	,02	,04
ZTRL	-,03	-,03	,05	,08	-,02	,19	,05	-,09	-,05	-,01	,11	-,05	,08	,09	,05
DVDF	,16	,08	-,05	-,04	,03	,14	-,10	-,14	-,03	,03	-,02	,01	,03	-,07	,01
DRAW	,07	,10	-,10	-,08	,04	,06	,02	,00	-,14	,11	,09	,04	,15	-,01	,02
MARC O	,07	,17	,04	-,01	,04	,05	,13	,05	-,06	,02	,03	,11	-,05	,05	,04
MTHR	,01	-,12	,10	,05	,10	,11	,11	,08	,08	-,01	,17	,26	,07	,08	,05

	JWALK	GOOGLE	TIKVES	FLA	PLST	AIRC	ONERE	SREDEP	NICEP	MXC	COSEC	MUS	TEFLON	TRMOS	BLB
INTD	-.06	.10	.01	-.13	.01	-.05	.05	.00	-.04	.00	.02	.02	.06	-.01	.00
UDRP	.29	.05	.04	.25	.12	.17	.11	.19	.01	.14	.14	.23	.04	.15	.23
NARNO T	.15	.00	.11	.14	-.03	.11	.12	.02	.06	.08	.01	.16	.03	.01	.05
FBINT	.06	.10	.04	.00	.03	.21	.03	.01	.15	-.02	.00	.19	.06	.12	.02
FBMK	.12	.08	.03	.08	.05	.17	-.04	.05	.21	.06	-.02	.08	.19	.06	-.03
AWFB	-.01	.08	.05	.01	.07	.03	.02	.02	.12	-.08	-.05	.04	.09	.06	-.03
SSQFB	-.08	.14	-.02	-.04	.05	-.01	-.05	.00	-.06	-.07	.00	.03	.01	.09	-.04
PRIVFB	-.02	.01	-.05	.00	.11	.01	.09	.05	.00	-.05	-.04	.04	.18	.09	.02
PER	.07	.10	-.07	.03	-.01	-.03	.02	.03	.05	.08	.01	-.02	.08	.10	.09
VSGL	.01	-.03	-.01	-.10	.13	-.03	.14	.02	.02	.03	.02	.17	-.10	.02	-.10
VIP	.09	.03	-.16	-.05	-.01	-.03	.02	.06	-.08	-.04	-.03	-.01	-.12	-.25	-.08
TMOB	-.17	-.03	-.11	-.04	-.04	-.18	-.28	-.12	-.18	-.14	-.10	-.15	.01	.00	.20
ONE	.09	.02	-.08	-.06	-.07	-.01	-.02	.01	-.01	.03	-.06	.04	.03	-.16	.05
BBR	-.07	.03	-.16	.01	.01	-.17	-.09	.07	-.04	.04	.01	-.11	.09	-.10	-.02
IPHON E	-.15	.06	-.25	-.08	-.08	-.21	-.24	-.15	-.10	-.11	-.13	-.16	.03	-.04	.08
LGMO B	.07	.11	.01	-.06	-.06	.06	.10	.08	-.12	.07	-.05	-.01	-.12	.01	-.01
MTRL	.03	.16	.02	-.20	-.12	.06	.11	-.01	-.02	.01	.03	-.05	-.02	-.18	.01
NOKIA	-.05	.11	-.08	-.21	.06	-.13	-.12	.04	-.03	-.01	-.05	-.09	.08	-.01	.06
SAMSU NG	-.04	-.07	-.11	-.08	.00	.07	-.09	-.06	-.14	.11	-.08	-.02	.01	.01	.01
SIMEN S	-.02	.08	-.08	-.16	-.13	-.03	.04	.00	-.09	-.03	.00	-.13	-.13	-.13	.03
SNERC	.01	.05	-.16	-.11	-.03	-.05	-.04	-.08	-.15	-.07	-.18	-.12	-.09	-.06	.12



	EXTS	MEKA	TXEX	FCUK	PINAP	DANORIG	FRSIM	CROSS	SWIDMI	DSG	LADYDI	NESTTE	MUST	BUHL	COLA
EXTS	<b>1,00</b>	,09	,13	,20	,06	,09	,06	,02	,06	,06	,04	,03	,07	,06	-,03
MEKA	,09	1,00	,30	,27	,05	,02	,09	,13	,08	,09	,28	,02	,06	,08	,04
TXEX	,13	,30	1,00	,15	,10	,16	,05	,12	-,01	,21	,08	-,06	,11	,04	,02
FCUK	,20	,27	,15	1,00	,05	,07	,05	,20	,16	,09	,28	-,04	,07	,09	,04
PINAP	,06	,05	,10	,05	1,00	,30	,02	,14	,05	,11	,10	,06	,09	-,01	,02
DANORIG	,09	,02	,16	,07	,30	1,00	,15	,27	,04	,12	,01	,01	,07	,04	,04
FRSIM	,06	,09	,05	,05	,02	,15	1,00	,27	,23	,06	,06	,12	,02	,12	-,01
CROSS	,02	,13	,12	,20	,14	,27	,27	1,00	,26	-,04	,08	,12	,03	-,04	,04
SWIDMI	,06	,08	-,01	,16	,05	,04	,23	,26	1,00	,15	,04	,14	,22	,06	,05
DSG	,06	,09	,21	,09	,11	,12	,06	-,04	,15	1,00	-,04	-,11	,12	,17	,14
LADYDI	,04	,28	,08	,28	,10	,01	,06	,08	,04	-,04	1,00	-,02	,06	,21	,07
NESTTE	,03	,02	-,06	-,04	,06	,01	,12	,12	,14	-,11	-,02	1,00	,17	,12	,11
MUST	,07	,06	,11	,07	,09	,07	,02	,03	,22	,12	,06	,17	1,00	,21	,34
BUHL	,06	,08	,04	,09	-,01	,04	,12	-,04	,06	,17	,21	,12	,21	1,00	,25
COLA	-,03	,04	,02	,04	,02	,04	-,01	,04	,05	,14	,07	,11	,34	,25	1,00
INS	,05	,10	,00	-,06	-,02	-,08	,14	,02	,11	-,09	,04	,13	,06	,12	,06
PERIN	-,08	,11	,04	,11	,04	,13	-,01	,04	,12	-,04	,08	,07	,41	,09	,42

	EXTS	MEKA	TXEX	FCUK	PINAP	DANORIG	FRSIM	CROSS	SWIDMI	DSG	LADYDI	NESTTE	MUST	BUHL	COLA
SPUMA	-,04	,06	,08	,15	-,04	,09	,02	,05	,01	,15	,04	-,02	,34	,16	,49
LADA	-,07	,09	-,08	,21	,02	,08	,11	,09	,12	,05	,19	,05	,16	,22	,29
IKEA	-,08	-,01	-,07	,11	,05	,14	,07	,16	,07	-,02	-,04	,08	,20	,06	,05
PICCASO	,05	,09	,05	,08	,07	,05	,03	,06	,18	,08	,12	,10	,19	,29	,36
MAGI	,00	,08	,09	,08	,00	,09	,17	,07	,25	,11	,10	,12	,29	,16	,29
LIVIA	,05	,12	,12	,07	,09	,09	,16	,19	,07	,17	,06	-,07	,06	,02	-,03

ZTRL	-.06	.05	.05	.15	.02	-.06	.00	.11	.15	.08	.01	.15	.25	.07	.26
DVDF	-.08	.06	.10	.11	.01	-.01	.14	.07	.17	.08	.07	.18	.36	.19	.22
DRAW	-.07	.09	.03	.06	-.04	-.01	.05	.06	.08	.06	.01	.22	.28	.16	.24
MARCO	-.08	.04	-.07	.00	.10	-.02	-.02	.11	-.02	.00	-.09	.14	.02	-.08	.07
MTHR	.01	-.05	-.11	-.01	.06	.04	-.01	-.05	.15	.03	-.05	.02	.09	-.03	-.10
INTD	.00	.06	-.02	.09	.04	.11	-.02	-.10	.07	.01	.03	.07	.22	.14	.09
UDRP	.17	.11	.06	.06	.08	.11	.09	.05	.11	-.06	.13	.13	.09	.05	-.01
NARNO T	.07	-.05	-.03	.00	.06	.12	.07	.15	.10	.04	.00	-.01	.10	.02	.02
FBINT	.01	.02	.01	.00	.02	.00	.17	.01	.13	.05	-.06	.09	.20	.08	.11
FBMK	.03	.07	.19	-.01	.05	.08	-.03	-.02	-.06	.10	-.02	-.02	.13	.09	-.02
AWFB	.11	.02	.08	.07	-.06	-.04	-.02	-.03	-.03	.02	.13	-.06	-.04	-.04	.06
SSQFB	-.02	.12	.09	.05	-.01	-.02	.04	.08	.15	-.08	.05	.01	.03	.13	-.05
PRIVFB	.02	.13	.18	.01	.03	.15	-.07	.04	-.05	-.03	.03	-.07	.05	.01	-.02
PER	.11	.01	.18	-.03	.00	-.12	.02	.01	.01	-.04	.01	-.03	-.06	-.03	-.04
VSGL	-.03	.03	-.11	-.03	-.10	.05	-.05	-.01	.08	.00	-.12	.03	.10	-.09	-.23
VIP	.04	.05	-.03	.02	.04	-.04	-.06	.01	.11	-.08	-.04	.13	-.11	-.03	-.07
TMOB	.00	-.08	-.07	-.04	-.09	-.16	-.09	-.14	-.03	.03	-.11	-.09	.04	.00	.16
ONE	.07	.04	.00	-.03	.01	.04	-.05	-.02	-.06	.08	.03	-.08	-.05	.08	.19
BBR	-.09	-.03	.04	.00	-.04	-.06	-.16	-.05	-.12	.02	-.05	.04	-.13	.03	.06
IPHON E	.02	-.06	.03	.00	.05	-.07	-.09	-.03	.09	.01	.00	-.11	.08	-.01	.15
LGMO B	-.01	.09	.01	-.19	.04	-.13	.18	.03	-.04	-.03	-.05	.10	-.15	.02	-.12
MTRL	.08	-.03	.06	-.09	-.13	-.06	.01	.04	-.12	-.05	-.13	.01	-.12	.05	-.03
NOKIA	.01	.03	.02	.01	-.09	.00	-.02	.04	.13	.02	-.09	.00	.02	-.06	.04
SAMSU NG	.01	-.13	-.12	-.20	.04	-.12	-.11	-.22	-.06	-.02	-.07	.04	.03	-.14	.06
SIMEN S	.10	-.15	-.05	-.06	-.02	-.01	.01	-.02	-.07	.00	-.07	-.06	-.07	.05	.02
SNERC	-.03	.00	-.05	.01	.07	.01	-.05	.05	-.01	.00	.09	.01	-.11	.01	-.04

	INS	PERIN	SPUMA	LADA	IKEA	PICCASO	MAGI	LIVIA	ZTRL	DVDF	DRAW	MARCO	MTHR	INTD	UDRP
INS	1,00	,17	,03	,07	,16	,21	,05	,18	,10	,15	,13	,13	,01	-,03	,10
PERIN	,17	1,00	,48	,33	,20	,42	,38	,09	,33	,37	,33	,08	-,04	,23	,05
SPUMA	,03	,48	1,00	,43	,10	,29	,37	,08	,35	,37	,32	,04	-,13	,23	-,03
LADA	,07	,33	,43	1,00	,23	,33	,34	,13	,17	,17	,23	,07	-,11	,21	,01
IKEA	,16	,20	,10	,23	1,00	,18	,05	,01	,07	,05	-,04	,09	,13	,03	,02

	INS	PERIN	SPUMA	LADA	IKEA	PICCASO	MAGI	LIVIA	ZTRL	DVDF	DRAW	MARCO	MTHR	INTD	UDRP
PICCASO	,21	,42	,29	,33	,18	1,00	,31	,10	,28	,23	,19	,10	,06	,06	,09
MAGI	,05	,38	,37	,34	,05	,31	1,00	,08	,33	,36	,26	,00	,07	,25	,01
LIVIA	,18	,09	,08	,13	,01	,10	,08	1,00	,11	,05	,09	,13	-,01	,04	,13
ZTRL	,10	,33	,35	,17	,07	,28	,33	,11	1,00	,38	,25	,09	,00	,19	-,06
DVDF	,15	,37	,37	,17	,05	,23	,36	,05	,38	1,00	,49	,10	-,04	,29	,01
DRAW	,13	,33	,32	,23	-,04	,19	,26	,09	,25	,49	1,00	,18	,03	,36	-,03
MARCO	,13	,08	,04	,07	,09	,10	,00	,13	,09	,10	,18	1,00	,26	,20	-,05
MTHR	,01	-,04	-,13	-,11	,13	,06	,07	-,01	,00	-,04	,03	,26	1,00	,14	,05
INTD	-,03	,23	,23	,21	,03	,06	,25	,04	,19	,29	,36	,20	,14	1,00	-,03
UDRP	,10	,05	-,03	,01	,02	,09	,01	,13	-,06	,01	-,03	-,05	,05	-,03	1,00
NARNO T	,18	,08	,03	,08	,11	,05	,07	,15	,08	,08	-,05	,03	,14	-,04	,29
FBINT	,00	,06	,17	-,11	,12	,07	,02	-,01	,09	,16	,06	,00	-,03	-,02	,11
FBMK	-,17	,07	,09	-,12	,04	,04	-,02	,02	,00	,02	-,03	-,01	-,05	-,06	,12
AWFB	,11	,09	,16	,03	-,02	,05	,11	,08	,13	,10	,09	,04	-,03	,03	,11
SSQFB	,01	,09	,09	-,01	-,14	,06	,02	-,04	,10	,03	,05	-,01	-,05	,09	,03
PRIVFB	-,07	,04	,04	,00	-,06	-,05	-,01	-,01	-,04	,00	,01	-,08	,03	,09	,04
PER	,16	,03	,11	,19	-,01	,08	,02	,10	,10	,02	,09	-,07	,01	,04	,09

VSGL	,08	,02	,01	,05	,17	-,10	-,07	,01	-,10	,07	,10	,16	,30	,18	,00
VIP	,02	-,17	-,13	,04	,20	-,01	,01	-,07	-,07	-,07	-,06	,15	,03	-,03	-,08
TMOB	-,03	,03	,07	,02	-,08	-,01	,05	-,11	-,03	,01	-,01	-,06	,01	-,05	-,10
ONE	,00	,01	,02	-,08	-,10	,01	,05	-,12	-,06	,06	,00	-,08	-,04	,03	,01
BBR	-,15	-,11	-,02	,09	-,13	-,04	-,02	-,08	,00	-,10	-,02	,06	-,04	,15	-,09
IPHON E	-,08	,04	,09	,04	-,11	,01	,05	-,11	,05	-,04	,04	-,01	-,07	,05	-,12
LGMO B	,10	-,18	-,13	-,04	,07	-,10	,01	-,04	-,09	-,04	-,03	,12	,02	-,05	,06
MTRL	,09	-,15	-,07	-,07	,01	-,13	-,08	-,03	,01	-,09	,03	,04	-,04	,04	-,09
NOKIA	,01	,04	-,07	-,07	-,02	-,02	-,02	-,17	-,04	-,04	,15	-,01	-,05	,08	-,16
SAMSU NG	,14	-,05	-,08	-,18	-,04	-,15	-,12	-,05	,00	-,04	,12	,06	-,07	,02	,06
SIMEN S	,07	-,08	-,16	-,07	,03	-,03	-,08	-,04	,07	-,02	,10	,11	,05	,09	-,10
SNERC	,02	-,13	-,06	,05	,05	-,10	-,04	,04	,04	,01	,01	,14	,07	,05	-,15

	NARNOT	FBINT	FBMK	AWFB	SSQFB	PRIVFB	PER	VSGL	VIP	TMOB	ONE	BBR	IPHONE	LGMOB	MTRL
NARNO T	<b>1,00</b>	-,01	,04	,06	,12	,10	,22	,04	-,10	-,03	-,03	-,10	-,18	-,06	-,09
FBINT	-,01	1,00	,51	,05	-,02	,02	-,09	,04	-,09	-,04	-,02	-,20	-,02	,01	-,01
FBMK	,04	,51	1,00	,08	,07	,20	-,01	,06	-,02	,03	,07	,01	,02	-,01	,00
AWFB	,06	,05	,08	1,00	,05	,07	,12	,02	-,08	,03	,08	,03	,03	-,07	,06
SSQFB	,12	-,02	,07	,05	1,00	,10	,06	-,05	-,06	,03	,00	,06	,14	-,06	-,03
PRIVFB	,10	,02	,20	,07	,10	1,00	,08	,07	-,08	,13	,04	,06	-,04	,02	,21
PER	,22	-,09	-,01	,12	,06	,08	1,00	,11	-,09	,05	,00	,04	,03	,06	,01
VSGL	,04	,04	,06	,02	-,05	,07	,11	1,00	,01	-,10	-,14	-,02	-,05	,02	-,02
VIP	-,10	-,09	-,02	-,08	-,06	-,08	-,09	,01	1,00	-,14	-,01	,16	-,02	,17	,21

	NARNOT	FBINT	FBMK	AWFB	SSQFB	PRIVFB	PER	VSGL	VIP	TMOB	ONE	BBR	IPHONE	LGMOB	MTRL
TMOB	-,03	-,04	,03	,03	,03	,13	,05	-,10	-,14	1,00	,04	,19	,25	,04	,01
ONE	-,03	-,02	,07	,08	,00	,04	,00	-,14	-,01	,04	1,00	,14	,07	,08	,15

BBR	-,10	-,20	,01	,03	,06	,06	,04	-,02	,16	,19	,14	1,00	,39	,14	,19
IPHON E	-,18	-,02	,02	,03	,14	-,04	,03	-,05	-,02	,25	,07	,39	1,00	,00	-,07
LGMO B	-,06	,01	-,01	-,07	-,06	,02	,06	,02	,17	,04	,08	,14	,00	1,00	,35
MTRL	-,09	-,01	,00	,06	-,03	,21	,01	-,02	,21	,01	,15	,19	-,07	,35	1,00
NOKIA	-,01	-,04	,06	,03	,15	,06	,11	,01	,02	,06	,04	,08	,22	-,08	,12
SAMSU NG	-,06	,07	,01	-,11	-,08	-,01	,02	-,02	-,04	,07	,07	,00	,09	,04	,07
SIMEN S	-,09	-,18	-,12	,03	,02	,01	,04	-,09	,17	,10	,09	,12	,00	,23	,44
SNERC	,00	-,14	-,02	,10	,03	,02	,00	,09	,23	,04	,07	,11	,07	,15	,13

	NOKIA	SAMSUNG	SIMENS	SNERC
NOKIA	<b>1,00</b>	,26	,22	,10
SAMSUNG	,26	1,00	,21	-,01
SIMENS	,22	,21	1,00	,28
SNERC	,10	-,01	,28	1,00

## 6.2.2. Method of Principal Components of Trademark Characteristics

On the basis of the obtained mutual correlations of the applied variables, the method of principal component is applied (Hotelling method). At Table 3, characteristic roots ( $\lambda$ ) (Eigenvalues) are presented, i.e. the percentage of valid variance and the cumulative variance are presented. Thus, Eigenvalues explain the cumulative variance of each principal component.

By application of the Kaiser-Goodman criterion, according to which as statistically significant principal component is considered each component that has Eigenvalue of at least 1, 00 (1,00 or more). We can see from the table that 28 statistically significant principal components regarding trademarks are extracted. The 29th component has a value of below 0,991. The first statistically significant root (principal component) has a value of 5, 54. The subsequent characteristic roots (from the second until the eighth) decline gradually, so that the eighth characteristic root is 2,01. All other characteristic roots have values from 2,00 to 1,05. According to this, the first nine components values that represent the structure of the principal components, i.e. the structure of the trademark characteristics in a more expressive way.

These components preliminary represent 28 latent dimensions (factors) that hypothetically preliminary define trademark characteristics.

Corresponding to the Eigenvalues are the percents of their valid variance. For instance, the first nine principal components' variance is higher from the variance of the others. The first principal component has the highest percent (7,01), while the percents of the principal components until the fourteenth principal component are higher than 2,00 (the fourteenth principal component has a value of 2,06).

The cumulative percents of the valid variance that are considered as more objective indicator for the structure of the trademark characteristics correspond to the basic percentage. In this sense, this is also visible from the cumulative percentage of the last statistically significant principal component (the 28th). Its percentage is 67, 54. This means that the principal components enhance more than 50% from the total valid structure of the trademark characteristics. Therefore, a real, valid structure of the trademark characteristics (67,54 % ) is defined.

Having in mind the large number of principal components extracted, their existence is justified; i.e. the existence of trademark characteristics is valid.

**Table 3: Trademark Characteristics**

**Principal Components' Eigenvalues**

Component	Initial Eigenvalues			Component	Initial Eigenvalues		
	$\lambda$	% of Variance	Cumulative %		$\lambda$	% of Variance	Cumulative %
1	5,54	7,01	7,01	47	,58	,73	86,58
2	4,12	5,21	12,22	48	,56	,71	87,29
3	3,33	4,22	16,44	49	,55	,70	87,99
4	2,66	3,37	19,81	50	,54	,68	88,67
5	2,56	3,24	23,05	51	,52	,65	89,32
6	2,30	2,91	25,96	52	,50	,64	89,96
7	2,09	2,65	28,60	53	,48	,61	90,57
8	2,01	2,55	31,15	54	,47	,59	91,16
9	2,00	2,53	33,67	55	,44	,55	91,71
10	1,84	2,33	36,01	56	,43	,54	92,25
11	1,80	2,27	38,28	57	,42	,53	92,78
12	1,70	2,15	40,43	58	,40	,51	93,29
13	1,65	2,08	42,52	59	,38	,49	93,78
14	1,62	2,06	44,57	60	,37	,47	94,25
15	1,55	1,96	46,53	61	,36	,45	94,70
16	1,53	1,94	48,47	62	,34	,43	95,13
17	1,46	1,84	50,31	63	,33	,42	95,55
18	1,43	1,81	52,13	64	,31	,39	95,94
19	1,37	1,74	53,86	65	,30	,38	96,32
20	1,34	1,70	55,56	66	,29	,36	96,68
21	1,32	1,67	57,23	67	,28	,35	97,03
22	1,30	1,65	58,88	68	,26	,33	97,36
23	1,29	1,63	60,51	69	,25	,31	97,68
24	1,20	1,52	62,03	70	,24	,31	97,99

25	1,15	1,45	63,48	71	,24	,30	98,28
26	1,11	1,40	64,88	72	,21	,27	98,55
27	1,05	1,33	66,21	73	,20	,26	98,81
28	1,05	1,33	67,54	74	,19	,24	99,05
29	,99	1,25	68,79	75	,18	,22	99,28
30	,99	1,25	70,04	76	,16	,20	99,48
31	,98	1,24	71,28	77	,15	,19	99,67
32	,95	1,20	72,48	78	,14	,18	99,85
33	,91	1,15	73,63	79	,12	,15	100,00
34	,88	1,11	74,74				
35	,83	1,06	75,80				
36	,81	1,02	76,82				
37	,80	1,02	77,84				
38	,78	,99	78,83				
39	,78	,98	79,81				
40	,75	,95	80,77				
41	,74	,94	81,71				
42	,71	,90	82,61				
43	,66	,83	83,44				
44	,65	,82	84,26				
45	,64	,81	85,06				
46	,62	,78	85,84				



### 6.2.3. Definition of Statistically Significant Principal Components

Table 4 shows the 28 isolated statistically significant principal components that featured by saturations of each applied variable. The structure of the principal components has merely preliminary values and still do not provide complete explanation of the manifest variables in the correlation matrix. In that way, the principal components do not provide real interpretation of the existence of the latent dimensions (factors), i.e. trademarks' characteristics.

Therefore, due to the preliminary character of the principal components values, the principal components are not interpreted. Nevertheless, for the purpose of obtaining a more reasonable interpretation of the trademark characteristics structure (satisfaction of the parsimony principle), as well as due to the high values of communalities ( $h^2$ ), the principal components are transformed into further orthogonal and oblique (in most cases in the social sciences research: oblimin) rotations.

The high values of the communalities of the 79 applied variables are also visible on Table 4. Most of the variables (46) have communalities values between 0,60 and 0,70. 28 communalities have values above 0,70. The highest value of these is the BUHL test value (0,79). Only 5 variable have communalities with values bellow 0,60. The lowest value is the MAGI test value (0,55).

All variables have high communalities values, which means that the trademark tests are expressively valid for definition of the isolated latent dimensions (trademark characteristics). This will be a basis for establishing simplified trademark characteristics structure.

**Table 4: Hotelling Significant Principal Components (H) with Communalities (h2) (Trademark Characteristics)**

	H1	H2	H3	H4	H5	H6	H7	H8	H9	H10	H11	H12	H13	H14	H15	H16
TXTR	,02	-,06	,04	-,20	,02	,11	,45	,02	-,34	-,01	,20	,00	-,12	,15	,00	,22
SEC	,13	,28	,29	-,08	,07	-,02	,31	,34	,20	,12	,05	,09	,22	-,20	,10	-,03
AROMA	,19	,46	,17	,16	-,07	,12	,08	,04	,03	-,13	-,18	,07	-,05	-,22	,06	,12
RING	,18	,22	,36	-,07	-,08	,09	-,03	,08	-,09	-,25	,16	,01	,07	-,04	,20	-,01
THR	,16	,09	,07	,03	,16	-,15	-,02	,21	,11	,14	,08	,12	,05	-,01	-,24	,01
TWC	,08	-,01	-,06	-,23	,21	,20	,11	-,13	-,33	-,25	,27	,02	,01	,14	,26	-,04
HPCOM	,16	,26	,19	-,20	,17	,00	,32	,25	,12	-,02	,02	-,06	,12	-,11	-,18	,09
MPT	,19	,07	,41	-,24	,05	,08	-,20	-,03	-,13	-,03	,00	-,12	,10	,11	-,05	,00
SNIKE	,19	,20	,48	-,12	-,02	,05	-,20	-,23	,12	-,01	,04	-,09	-,11	-,08	,13	,04
THOME	,27	,17	,15	-,20	-,22	,12	-,01	-,17	,07	,19	-,12	,02	,14	,28	,05	-,08
LLV	,33	-,08	-,33	-,12	,18	-,05	,16	,08	-,20	-,24	,31	,18	-,08	,16	,08	-,11
JHNS	,28	,28	,18	-,29	,02	,21	,16	-,02	-,14	-,02	,08	,06	,02	-,15	-,03	,10
YARIS	,22	,22	,26	-,38	,20	,13	-,05	-,02	-,06	-,09	,15	,06	-,18	-,19	,01	-,04
GLT	,15	,29	,24	-,14	,21	-,16	-,25	-,11	,19	-,17	,10	,04	,27	-,01	-,23	-,15
SADID	,19	,12	,12	-,13	,02	-,22	-,45	,20	-,12	-,03	-,10	,26	,04	-,03	-,22	,05
JWALK	,34	,36	,44	-,18	,10	,10	-,09	-,07	,07	,03	,09	-,11	-,05	-,07	,13	-,07
GOOGLE	,19	,01	,26	-,01	,34	,03	-,16	,18	-,08	-,10	,05	-,07	-,32	,16	,03	,15
TIKVES	,21	,28	-,13	-,04	-,07	-,12	-,09	,15	-,10	-,35	-,18	,16	,04	,18	-,20	,15
FLA	,27	,24	-,24	-,16	-,12	,07	,05	-,47	,09	,10	,10	-,08	-,11	,00	-,05	-,14
PLST	,25	,21	-,19	,03	-,10	,17	-,12	-,17	,17	-,18	,20	,11	,02	-,02	-,15	,15
AIRC	,47	,28	-,12	,11	-,15	,36	,07	-,06	-,11	,05	,01	-,09	,04	,06	-,17	-,10
ONERE	,22	,41	-,22	,41	-,05	,02	,13	-,10	-,03	-,20	-,10	-,06	,04	,07	-,07	,01
SREDEP	,21	,31	-,31	,22	,19	,19	-,06	-,33	,02	,08	,08	,12	-,14	-,17	-,10	-,01
NICEP	,14	,21	-,50	,08	,00	,18	-,07	,14	-,07	-,11	-,11	-,15	-,03	-,22	,04	,05
MXC	,25	,24	-,13	,14	,18	,04	,03	,12	-,16	,14	-,08	,25	-,05	-,24	,18	-,27
COSEC	,26	,07	-,23	,20	,01	-,11	,00	-,22	-,11	-,16	-,21	,27	-,01	,15	,16	,12
MUS	,38	,32	-,26	,26	-,10	,01	,01	,08	-,07	,00	-,06	,05	,00	-,05	,29	,23
TEFLON	,18	-,07	-,34	-,04	,24	,28	-,23	-,01	,10	,04	,11	,09	,01	-,07	-,18	-,16
TRMOS	,25	,08	-,13	-,19	,02	,13	,06	,08	,27	-,21	,22	,12	-,01	,12	-,28	,15

BLB	,16	-,05	,02	-,12	,26	-,02	,18	-,23	,31	,16	-,06	,11	,22	,14	,20	,13
EXTS	,10	,14	-,21	,08	,32	,01	,09	,03	,10	,17	-,13	,10	-,09	-,12	,12	,08
MEKA	,30	,03	-,10	,01	,34	-,26	-,09	-,12	,16	-,03	-,13	,06	,24	,19	,26	-,12
TXEX	,21	-,03	-,36	,00	,43	,01	-,03	,06	-,02	,02	-,14	-,17	,03	,03	,10	-,16
FCUK	,26	-,12	-,05	-,06	,25	-,45	,01	-,11	,02	,12	-,02	-,06	,06	,01	,33	,11
PINAP	,16	,07	-,11	,05	,12	-,12	-,01	-,09	,05	,38	,21	-,02	,29	,14	-,32	-,02
DANORIG	,21	,02	-,27	,12	,10	-,19	-,07	,09	-,19	,33	,17	-,21	,02	-,04	-,19	,08
FRSIM	,30	,18	,14	,00	,12	-,19	-,03	,29	-,25	,10	-,11	,11	-,19	,00	-,01	-,09
CROSS	,29	,12	,03	,06	,21	-,26	,03	,02	-,22	,23	,10	-,17	-,28	,11	-,09	-,02
SWIDMI	,34	-,04	,10	,08	,02	-,21	-,15	,12	-,03	,29	,11	,28	-,28	-,01	,06	,12
DSG	,19	-,10	-,27	-,02	,22	,10	,18	,17	-,16	,11	,19	,15	,29	-,27	-,02	-,13
LADYDI	,26	-,01	,01	-,19	,19	-,33	,07	-,15	,08	-,15	-,11	,06	,22	,26	,10	,17
NESTTE	,28	,09	,23	,16	-,12	,21	-,24	-,33	,00	,23	,03	,09	-,17	,06	-,07	-,14
MUST	,52	-,27	-,07	,06	-,19	,15	-,09	,16	,06	,16	-,02	,10	,18	,01	,04	,12
BUHL	,32	-,17	,08	-,07	,20	,00	-,12	,01	-,21	-,15	-,19	,19	,21	-,12	-,13	,16
COLA	,38	-,50	,07	-,12	,00	,23	,17	-,13	-,15	,09	-,14	,11	,09	-,05	-,10	,17
INS	,27	,11	,27	,22	-,08	,02	,25	,03	,16	-,06	-,25	,06	-,11	,22	,00	-,06
PERIN	,53	-,45	,11	-,02	-,22	,01	-,01	,01	,11	,04	-,08	-,12	-,04	,05	-,01	,05
SPUMA	,45	-,56	-,07	-,02	-,09	,06	,08	,05	-,02	-,10	-,06	-,23	,00	-,15	,04	-,02
LADA	,42	-,31	,24	,00	-,01	-,26	,11	-,16	-,02	-,11	,05	-,12	-,02	-,30	-,06	,04
IKEA	,23	,04	,16	,22	-,22	-,09	,04	,03	-,15	,27	,03	-,26	,10	-,02	-,02	,24
PICCASO	,54	-,20	,02	-,01	-,08	,03	,14	-,28	-,08	-,03	-,08	,03	-,04	-,06	-,16	,21
MAGI	,49	-,32	,08	,10	-,07	-,04	,02	-,03	-,07	-,06	-,09	,02	-,03	-,25	-,04	,04
LIVIA	,32	,14	-,08	,03	,11	-,17	,27	,04	-,01	-,03	,13	-,14	-,02	,03	,01	-,37
ZTRL	,38	-,41	-,01	,16	-,08	,04	,12	-,07	-,03	-,09	-,03	-,06	-,09	,20	-,17	-,21
DVDF	,48	-,35	,24	,10	-,11	,03	-,12	,18	,05	,00	-,07	-,06	,10	-,01	,05	-,29
DRAW	,39	-,37	,20	,26	,01	,15	-,06	,10	,06	-,11	,08	,16	,01	,07	,10	-,30
MARCO	,14	,02	,18	,39	-,04	,06	,13	-,05	-,04	-,12	,41	-,01	,04	,15	,08	,03
MTHR	,10	,17	-,09	,38	-,19	-,03	,04	,03	,15	-,04	,32	,19	,16	-,01	,01	,34
INTD	,21	-,35	,07	,38	,03	-,05	-,25	,04	,13	-,20	,16	,06	,11	-,06	,06	-,09
UDRP	,34	,32	-,08	-,11	,06	,05	,01	-,18	,29	,17	-,12	-,02	-,10	,10	,14	,07
NARNOT	,27	,18	-,03	,01	-,06	-,07	,23	,17	,28	,19	-,04	-,19	-,20	-,03	-,13	,08
FBINT	,27	,04	-,09	-,17	-,12	,33	-,26	,32	-,14	,13	-,03	-,16	,06	,20	,14	,14

FBMK	,17	,04	-,22	-,20	,15	,41	-,34	,17	-,06	,07	,09	-,36	,12	,12	,17	,12
AWFB	,12	-,13	-,11	,02	,19	,09	,18	,05	,14	-,29	,03	-,33	-,19	,10	,03	,10
SSQFB	,08	-,15	-,03	,00	,19	-,07	-,18	,07	,18	-,08	-,03	,05	-,37	,18	-,07	,18
PRIVFB	,02	-,04	-,16	,11	,25	,11	-,22	,08	,31	-,05	-,05	-,32	,15	,08	-,12	,09
PER	,12	,00	,06	,05	,21	,03	,24	,12	,45	-,08	-,07	-,12	-,27	-,17	-,04	-,10
VSGL	,05	,14	,05	,35	-,23	-,06	-,17	,23	,25	-,13	,33	-,09	,06	-,13	,29	,08
VIP	-,14	,11	,28	,34	,10	-,05	-,06	-,27	-,26	,20	,08	-,14	,04	-,08	,13	,12
TMOB	-,19	-,33	,06	-,14	,10	,19	,13	,02	,25	-,01	-,03	,12	,05	-,17	,00	,22
ONE	-,05	-,09	,05	,03	,24	,23	,08	-,03	-,07	,11	-,27	-,06	,19	-,12	,10	,14
BBR	-,22	-,21	,06	,15	,34	,16	-,14	-,37	,03	-,10	,11	-,01	-,03	-,31	-,01	,04
IPHONE	-,17	-,44	,04	-,10	,20	,09	-,07	-,05	,11	,16	,15	,16	-,11	-,11	,07	,17
LGMOB	-,08	,25	,32	,27	,24	,16	,00	-,01	-,08	-,04	-,16	,00	,11	-,01	-,10	-,02
MTRL	-,17	,09	,25	,41	,37	,25	-,04	,04	-,16	-,13	-,32	-,16	,04	,06	-,10	,04
NOKIA	-,11	-,22	,06	,12	,27	,20	-,12	,16	,11	,18	,11	,24	-,28	,17	,03	,13
SAMSUNG	-,17	-,04	,11	,07	-,08	,49	,19	,12	,15	,25	-,01	,30	,04	,26	,14	-,17
SIMENS	-,20	-,07	,28	,40	,32	,16	,23	,03	-,12	,02	-,07	,09	,02	,18	-,20	,06
SNERC	-,13	-,08	,27	,20	,29	-,07	,12	-,02	-,03	,03	,36	-,15	,19	,19	-,08	,06

Table 4 (Cont.)

	H17	H18	H19	H20	H21	H22	H23	H24	H25	H26	H27	H28	h2
TXTR	-,21	,00	-,06	,04	-,01	,02	,09	-,03	-,01	-,30	-,10	,02	,65
SEC	,08	-,04	-,04	,08	,24	-,05	,12	-,12	,09	-,14	,03	-,14	,72
AROMA	,19	,11	-,05	-,03	-,15	-,16	-,14	-,13	-,03	,10	-,20	,13	,65
RING	,19	-,19	,06	,20	,10	-,06	-,01	,24	-,17	-,22	,03	-,14	,67
THR	-,13	-,01	-,30	-,10	-,28	-,05	-,33	,21	-,05	-,04	,15	,26	,68
TWC	,00	-,05	,16	-,01	-,17	,04	-,16	-,26	,03	,21	,02	-,05	,71
HPCOM	,14	-,12	-,15	-,12	-,03	-,16	-,03	-,03	,18	,07	-,14	,13	,63
MPT	-,21	,26	,09	,22	,15	-,05	-,10	,13	-,05	-,11	-,08	-,02	,62
SNIKE	-,11	-,18	-,10	-,13	-,05	,02	,04	-,20	,09	-,07	,12	-,04	,63
THOME	-,01	,07	,17	,12	,07	,17	-,24	,06	,00	,17	-,04	-,06	,60
LLV	,03	,09	,06	,04	-,07	,08	-,11	,03	-,20	-,05	,15	,01	,69
JHNS	,00	-,01	-,07	,12	,14	-,25	-,15	,07	-,08	,15	-,11	,03	,58

YARIS	-,20	,13	,12	-,09	,11	,08	,18	-,11	-,01	,10	-,10	,10	,64
GLT	-,20	,23	-,03	,01	-,01	,01	,21	-,11	,12	,00	-,05	,11	,73
SADID	-,03	-,02	,14	,12	,06	,03	,21	,15	-,05	,13	,23	,08	,70
JWALK	-,13	-,13	-,13	,05	-,19	-,17	-,05	,01	,01	-,04	,14	,08	,71
GOOGLE	-,01	-,20	,04	-,15	,01	-,06	,17	,24	,07	-,13	-,02	-,09	,63
TIKVES	-,06	-,06	,12	-,08	,00	-,27	,04	,15	,05	,26	,11	-,09	,70
FLA	,06	,13	,09	,21	-,04	-,05	,19	,09	-,12	,00	,12	,06	,67
PLST	,10	-,09	-,10	,28	,25	,08	,12	-,24	,00	,11	,10	,18	,69
AIRC	,20	,05	-,10	,11	,03	-,01	-,09	-,07	-,05	-,08	,07	,11	,66
ONERE	-,04	-,07	,01	,00	,17	,06	,02	-,03	-,05	,13	-,20	,12	,64
SREDEP	-,03	-,09	-,08	-,24	,09	,04	-,03	-,07	-,06	-,04	-,01	-,15	,67
NICEP	-,08	,06	-,21	,07	,24	,02	,15	,21	-,01	,07	-,09	-,12	,69
MXC	-,12	-,14	,19	-,04	,04	,04	-,16	,20	-,10	,09	-,05	-,01	,65
COSEC	-,18	,11	,15	-,03	-,09	-,21	-,07	-,04	,22	-,24	,09	,17	,71
MUS	,04	-,07	,07	,19	-,08	,04	,04	,13	,08	-,15	,00	,10	,65
TEFLON	-,17	,02	,03	-,13	-,07	-,16	-,13	,12	,04	,04	,12	-,28	,65
TRMOS	,19	-,12	-,12	-,34	,05	,14	-,16	,00	-,16	-,11	-,05	,00	,71
BLB	,02	,10	,09	-,17	,03	-,21	,28	,02	-,24	,05	-,04	-,08	,70
EXTS	-,18	-,02	-,23	,03	,05	,25	,26	,07	-,21	,05	-,01	-,04	,57
MEKA	,21	,06	-,02	-,16	,19	-,08	-,13	-,12	,11	,01	,14	-,09	,72
TXEX	,18	,07	-,05	,04	,18	-,15	-,01	,04	,14	-,20	,07	-,03	,62
FCUK	-,13	,10	-,22	-,08	-,02	-,14	,02	-,02	-,17	,10	-,19	,15	,70
PINAP	,09	-,19	,05	,01	,00	,06	,12	,10	,27	-,03	-,11	,07	,64
DANORIG	-,09	-,41	,20	,11	-,03	-,02	,07	-,19	-,04	-,06	,07	,07	,74
FRSIM	,26	-,01	,15	-,02	-,09	,19	,15	-,13	-,12	,01	,10	-,01	,62
CROSS	,19	-,02	,16	,03	,12	-,29	,00	-,13	-,04	,16	-,16	-,05	,70
SWIDMI	,13	,29	-,11	,11	-,08	,03	-,05	-,08	,05	-,03	,10	-,01	,65
DSG	,00	,21	-,07	-,03	-,11	,05	-,08	-,20	,15	,04	,05	-,03	,64
LADYDI	,09	-,22	-,14	,14	,09	,22	-,18	,18	-,10	,02	-,10	,01	,71
NESTTE	,12	-,04	-,16	-,09	-,04	,05	,05	,03	-,13	-,03	-,13	-,26	,68
MUST	,01	,04	,00	,04	,09	-,06	,07	,06	-,13	,01	-,16	,05	,60

BUHL	-,17	,06	,04	,02	-,07	,37	-,10	-,09	,10	-,07	-,27	-,27	,79
COLA	-,03	-,15	,08	-,08	,02	-,12	,06	,05	,01	,00	,11	-,09	,70
INS	-,03	,08	,08	,03	,16	,20	,06	-,03	,26	,12	,17	-,10	,64
PERIN	-,08	-,14	,06	-,04	,07	-,13	-,05	,04	,02	-,06	,14	,09	,68
SPUMA	,07	-,05	,05	-,13	,03	,04	,02	-,05	-,07	,04	,02	,03	,68
LADA	-,04	-,06	,19	-,12	,11	,18	-,17	,01	-,08	-,04	,04	,14	,72
IKEA	-,14	,14	,14	-,33	,16	,06	-,18	,04	-,06	,19	,08	-,04	,71
PICCASO	-,09	,11	-,04	,00	,13	,07	,02	-,05	,24	-,10	,12	-,01	,66
MAGI	,20	,00	-,09	,14	-,02	,02	,04	-,08	-,11	,04	,07	,03	,55
LIVIA	-,07	,14	,21	,04	-,04	,11	,16	,07	,15	-,04	-,05	,12	,57
ZTRL	,06	,29	-,14	,02	-,11	-,12	,00	,09	-,08	,07	-,14	,09	,69
DVDF	,05	,03	-,21	,15	-,15	-,07	,07	-,03	,02	,07	-,03	-,07	,71
DRAW	-,09	-,13	-,06	,05	,00	-,08	,00	-,04	-,02	-,10	-,05	,00	,64
MARCO	,11	-,08	,08	-,20	-,04	-,17	,22	,12	,25	,08	-,09	-,11	,70
MTHR	-,06	,21	,03	,11	-,26	-,12	,01	,10	-,03	-,10	,07	-,17	,73
INTD	-,16	-,22	,05	-,01	-,11	,07	,12	-,04	-,03	,08	-,20	,03	,65
UDRP	-,06	-,14	,12	-,06	-,39	,21	,04	-,01	-,04	,00	,01	,11	,70
NARNOT	-,17	,10	,23	,21	-,22	-,04	-,12	,05	,02	,12	-,13	-,25	,71
FBINT	,07	,18	-,08	-,24	-,07	,16	,21	,02	,07	-,04	-,07	,14	,76
FBMK	-,01	,16	,07	-,03	-,04	,08	-,07	,07	,09	-,01	-,02	,05	,72
AWFB	-,06	-,04	-,27	,05	-,15	,14	,11	,05	,06	,31	,26	-,02	,70
SSQFB	,22	,03	-,03	,18	-,06	,06	-,16	-,18	,19	-,07	-,31	-,09	,65
PRIVFB	,01	-,05	,23	,16	,03	-,09	-,13	-,23	-,23	-,24	,02	,01	,69
PER	-,10	,12	,09	-,01	,15	,09	-,12	,19	,07	-,20	,04	-,03	,64
VSGL	-,08	,08	,13	-,04	,11	,10	-,10	-,10	,00	,08	,04	,05	,68
VIP	,05	,12	-,26	,00	,12	,08	-,09	,05	,10	-,09	,12	-,04	,64
TMOB	,21	,23	,27	-,03	-,11	-,07	,19	-,10	-,15	-,01	,09	-,06	,66
ONE	,00	-,26	-,07	,31	-,23	-,07	-,02	-,04	,17	,17	,08	-,11	,62
BBR	,09	,03	,19	,10	-,05	-,03	-,11	,24	,13	,09	-,14	,17	,74
IPHONE	,26	,04	,10	,10	,10	,08	,06	,30	,18	,13	-,04	,24	,74
LGMOB	,41	,07	,15	-,19	-,13	,18	-,06	,10	-,07	,00	,13	,06	,70

MTRL	-,07	,09	,06	-,04	-,03	-,11	,03	-,09	-,14	-,02	,02	,13	,73
NOKIA	-,21	,01	-,05	,07	,33	-,12	-,17	-,18	-,01	,18	,11	,07	,75
SAMSUNG	-,08	-,18	,09	,01	,09	,09	-,07	,00	,03	,04	-,05	,21	,75
SIMENS	-,21	,06	-,01	,09	,00	,04	,14	-,05	-,17	-,10	-,01	,10	,69
SNERC	,05	,10	-,07	,21	,02	,17	-,03	,09	-,17	,15	,11	-,15	,66

---

#### 6.2.4. Trademark Characteristics Varimax Factors

The successive transformation of the principal components was accomplished with the varimax method (the Kaiser-Goodman Criterion). This transformation was realized since the method of principal components doesn't provide for the manifest variables' structure to be explained and interpreted entirely.

This is due to the rough approximation of the real existence of the extracted latent dimension. This situation is often present in certain social sciences. Specifically, the correlations of the trademark variables with the varimax factors are not in larger extent statistically significant. Hence, in the varimax factors correlations the causation doesn't dominate, which means only association is present (orthogonal rotation), while causal ordering lacks. Furthermore, the number of these correlations is insufficiently present at the majority of the variables. Due to this, in most cases it is not possible to establish a complete interpretation (definition) of the extracted trademark characteristics' factors.

For example, the 9th varimax factor (as it is the case with the other extracted varimax factors) is defined by small number of variables that have statistically significant correlations (saturation above 0,30). Such variables are: TXTR (0,35); TWC (0,78); LLV (0,62); DSG (0,32). According to this, out of 79 variables, only 4 variables saturate the 9th hypothetical trademark characteristic (the 9th factor). Therefore, the structure of the 9th factor is not sufficiently clear.

These circumstances demand to continue the procedure towards application of improved parsimony solution for more comprehensible definition of the extracted factors through application of oblimin rotations.

Table 5: Varimax Factors (Trademark Characteristics)

	V1	V2	V3	V4	V5	V6	V7	V8	V9	V10	V11	V12	V13	V14	V15	V16
TXTR	-.01	.05	-.04	.08	-.27	-.16	.05	-.13	.35	-.02	-.15	.07	-.01	.17	.08	-.20
SEC	-.06	-.06	.06	.47	.13	-.10	-.07	.15	-.14	.03	-.04	.25	.09	-.09	.12	-.29
AROMA	-.05	.19	.13	.57	.20	.08	.00	.14	-.08	.12	.11	-.05	-.04	.19	-.19	-.01
RING	.05	.00	.17	.15	.11	-.05	-.02	.09	.05	.03	.05	-.01	.06	-.04	-.12	-.01
THR	.04	.04	.05	.14	.01	.04	-.02	.05	-.05	-.08	-.02	.04	.03	.01	.05	-.01
TWC	-.04	-.01	.12	.06	-.01	.02	.07	-.02	.78	-.01	.08	-.15	-.01	.00	.02	.06
HPCOM	-.03	.02	.11	.67	-.08	-.13	.03	-.03	.00	.00	-.09	.15	.00	-.12	-.05	-.07
MPT	.07	.08	.11	.02	-.12	-.08	.14	-.03	.00	-.07	.22	.02	.58	-.01	.06	.01
SNIKE	.04	-.02	.75	.07	.05	.03	-.02	.00	-.05	.05	.03	-.02	.13	-.01	.00	-.06
THOME	.05	-.11	.07	.03	-.05	.00	.08	.00	.02	.06	.72	.02	.12	.00	-.01	-.07
LLV	.14	-.11	-.24	-.11	-.02	.10	.03	.17	.62	.11	-.05	.08	-.01	.11	-.01	-.06
JHNS	.04	-.09	.06	.55	-.16	.11	.02	-.02	.15	.13	.14	-.05	.19	-.01	.08	.03
YARIS	-.05	-.06	.34	.25	-.09	.08	.12	.20	.21	.06	-.02	.13	.41	-.06	.10	.11
GLT	-.10	.09	.25	.09	.11	-.01	-.02	.00	-.06	.14	-.02	.03	.67	-.03	-.14	-.02
SADID	.02	-.07	.06	-.13	-.01	-.05	.04	.47	-.19	.11	-.02	-.13	.31	.00	.07	.07
JWALK	.05	.00	.61	.28	.01	.07	.07	.07	.07	.01	.09	.07	.24	.03	-.04	-.06
GOOGLE	.06	.19	.32	-.02	-.08	.05	.20	.15	.04	-.21	-.23	.18	-.01	-.01	.14	.10
TIKVES	-.04	.00	-.07	.13	.02	.05	.00	.04	.04	.07	.01	-.04	.05	.18	-.05	-.16
FLA	.00	-.19	.06	-.10	-.17	.25	-.01	.02	.09	.39	.23	.09	.17	.14	-.30	.04
PLST	.03	-.09	.06	.08	.13	.06	.01	-.01	.03	.77	.02	-.06	.06	.03	.10	.01
AIRC	.21	.12	-.04	.23	-.07	.24	.23	.08	.07	.42	.23	.00	-.01	.12	-.14	-.18
ONERE	-.05	.28	-.13	.19	.20	.14	-.04	-.04	-.02	.34	.12	.08	-.10	.19	-.15	-.10
SREDEP	-.11	.06	.12	.05	.00	.67	-.04	.01	.04	.27	-.05	.03	-.13	.14	-.02	.01
NICEP	-.05	-.11	-.32	.07	.02	.32	.33	-.06	-.13	.26	-.21	.17	-.04	.02	-.08	-.05
MXC	.00	-.01	-.10	.16	.09	.38	-.05	.35	.10	-.16	.16	.14	-.07	.17	.08	.11
COSEC	.07	.07	.00	-.09	.02	.04	-.05	-.03	.10	.04	.00	-.01	.03	.79	-.01	-.03



MUS	,01	-,05	-,05	,08	,25	,05	,21	,19	-,02	,24	,05	,10	-,19	,48	-,15	-,04
TEFLON	,09	-,13	-,06	-,09	-,03	,63	,14	-,12	,13	-,06	-,04	,09	,09	-,02	,12	,05
TRMOS	,06	-,09	,06	,20	-,03	,16	,10	-,11	,11	,22	,02	,06	-,21	-,14	-,02	-,09
BLB	,08	,07	,07	,08	-,04	,09	-,02	-,11	,00	-,06	,15	,01	,05	,05	,01	-,03
EXTS	-,10	,09	-,03	-,05	-,05	,23	,08	,17	-,08	,17	-,09	,21	-,09	-,04	,08	-,06
MEKA	,06	-,03	,05	,01	,03	,05	-,02	,05	,08	,00	,08	,02	,03	,12	,02	-,05
TXEX	,07	,01	-,20	,02	-,21	,17	,22	,04	,07	,02	-,21	,20	,02	,13	-,01	,02
FCUK	,16	-,12	,04	,06	,02	-,10	-,04	,01	,07	-,15	-,09	-,11	,13	,10	-,03	,02
PINAP	-,02	-,04	-,05	,04	-,03	,07	,04	,00	-,11	,08	,10	-,03	,06	-,03	-,07	,06
DANORIG	,08	-,09	,02	-,06	,00	,06	-,01	,25	,09	,07	-,16	-,07	-,13	,06	,03	-,09
FRSIM	,06	,10	,07	,07	-,05	-,04	,05	,73	,08	-,03	,00	,04	-,04	-,02	-,09	-,15
CROSS	,08	,02	-,01	,23	-,08	,10	-,10	,35	,14	-,10	-,02	-,02	,08	-,01	,05	-,03
SWIDMI	,16	-,15	,01	-,04	,11	,05	,02	,48	-,04	,06	,00	-,02	,11	,16	,17	-,04
DSG	,11	-,10	-,29	,21	,07	,20	,10	,11	,32	,04	-,15	,00	,10	,02	,00	-,05
LADYDI	,06	-,09	,01	-,01	-,15	-,24	-,12	-,08	,10	,12	,24	,00	-,08	-,03	-,10	,04
NESTTE	,20	,10	,29	-,08	-,01	,48	,00	,09	-,19	,06	,26	-,18	,02	-,09	-,07	-,06
MUST	,56	-,11	-,17	,09	,13	,07	,25	,05	-,14	,08	,16	-,10	,02	,10	,10	-,05
BUHL	,21	,06	-,03	,00	-,05	,10	,05	,09	,10	-,06	,06	-,03	,19	,07	-,09	,00
COLA	,59	-,01	,04	,02	-,31	,09	,01	-,07	,09	-,03	,02	-,05	-,12	,10	,12	,06
INS	,14	,20	,12	,01	,07	-,12	-,09	,10	-,08	,14	,29	,43	-,02	,07	,09	-,20
PERIN	,71	-,16	,16	-,06	-,06	-,10	,05	-,06	-,06	-,01	,07	,11	-,06	,12	,10	-,03
SPUMA	,71	-,11	-,04	-,02	-,05	-,04	,12	-,01	,12	-,02	-,10	,10	-,15	-,07	-,08	,06
LADA	,49	-,08	,17	,03	,00	-,12	-,24	,12	,10	,00	-,01	,18	,03	,01	-,13	,23
IKEA	,15	,07	,03	,06	,20	,01	,12	,04	-,08	-,12	,17	,00	-,05	-,01	,03	-,10
PICCASO	,45	-,07	,10	-,01	-,19	,05	-,01	-,06	,04	,30	,01	,16	,10	,29	-,03	-,02
MAGI	,60	-,03	-,01	,07	-,02	,01	-,09	,24	-,01	,21	-,07	-,03	-,04	,01	-,12	,06
LIVIA	,10	,00	-,08	,05	,07	-,03	,00	,17	,24	-,02	,05	,41	,22	,10	-,25	-,04
ZTRL	,61	,16	-,25	-,05	-,07	,05	,01	-,08	,09	-,02	,09	,04	,13	,01	-,12	-,02
DVDF	,68	-,01	,05	,02	,13	-,01	,08	,10	-,07	-,08	,05	-,01	,16	-,15	-,06	-,14
DRAW	,61	,13	,08	-,06	,20	,10	-,07	,00	,07	-,08	,01	,02	,06	,05	,20	-,05
MARCO	,14	,20	,10	,08	,41	,08	,00	-,14	,15	-,06	-,11	,00	-,08	,04	-,04	,04
MTHR	-,06	,01	-,14	-,03	,55	,14	-,06	-,09	-,02	,15	-,02	-,03	,01	,26	-,12	-,14
INTD	,44	,11	,09	-,18	,46	,04	-,09	-,04	,00	-,06	-,11	-,08	,01	-,05	,04	,15

UDRP	-.06	-.05	.40	.01	.02	.11	.16	.13	.06	.10	.37	.20	-.16	.20	-.23	-.03
NARNOT	.03	-.14	-.04	.18	.14	.12	-.04	.08	-.01	-.10	.27	.47	.04	.00	-.11	-.18
FBINT	.12	-.01	.04	.04	.00	-.04	.81	.13	-.02	.01	.05	-.10	.00	.03	-.01	-.13
FBMK	-.01	-.05	.01	-.02	.03	.09	.76	-.08	.17	.01	.07	.01	.10	-.03	.02	.10
AWFB	.15	.09	.11	-.11	.00	-.08	.15	-.17	.28	.24	-.19	.34	-.18	-.27	-.06	-.02
SSQFB	.03	-.05	.01	.00	-.01	-.04	.02	.07	.00	.03	-.02	.08	-.05	.02	.12	.11
PRIVFB	.03	.18	-.02	-.08	.10	.04	.11	-.11	-.04	.10	-.02	.09	.04	-.02	.02	-.03
PER	.06	.03	.03	.08	.01	.08	-.07	-.05	-.12	-.05	-.04	.73	.01	.00	.06	.09
VSGL	-.02	-.08	.06	.00	.74	-.08	.08	.02	-.03	.08	-.02	.10	-.01	-.01	.09	-.01
VIP	-.15	.26	.14	-.10	.05	.03	-.05	-.02	-.12	.04	-.11	-.14	.04	.00	.00	.10
TMOB	.06	.05	-.09	.02	-.01	-.07	-.01	.01	.00	-.03	-.07	.04	-.04	-.08	.02	.19
ONE	.04	.13	.07	.11	-.13	-.01	.01	-.08	.03	.00	.03	-.05	-.16	-.03	.03	.10
BBR	-.03	.16	.00	-.04	.03	.13	-.12	-.17	.04	-.02	-.08	.00	.08	.01	-.03	.78
IPHONE	.07	-.11	-.13	-.09	-.08	-.16	.09	.03	-.06	.00	-.04	.02	-.08	-.10	.24	.68
LGMOB	-.16	.56	.09	.12	.03	.04	.04	.26	-.05	-.02	.13	.00	-.13	-.10	-.22	.20
MTRL	-.06	.78	.04	.06	-.03	.02	.05	.00	-.06	-.08	-.10	-.01	.07	.04	.06	.05
NOKIA	.00	.10	-.01	-.06	.03	.07	-.02	.01	.04	.04	-.03	.02	.01	-.05	.82	.09
SAMSUNG	-.03	.18	-.02	.07	.02	-.04	.09	-.10	-.01	-.04	.42	.03	-.22	.02	.47	.01
SIMENS	-.02	.71	-.08	-.07	-.04	-.06	-.16	-.03	.00	-.02	-.07	.06	.07	.01	.23	-.05
SNERC	-.07	.32	-.10	-.16	.16	-.11	-.14	-.05	.21	.05	.03	.03	.13	-.43	.05	.04

---

Table 5 (Continued).

	V17	V18	V19	V20	V21	V22	V23	V24	V25	V26	V27	V28
TXTR	,09	-,38	,06	,13	,09	-,19	,20	-,14	,08	,03	-,09	-,03
SEC	-,01	,16	,18	,13	-,05	-,17	,26	-,06	,10	-,18	,09	-,06
AROMA	,00	-,03	-,05	-,27	,03	,03	-,02	-,03	-,04	,12	,03	,03
RING	-,09	,00	-,04	-,09	-,07	,03	,73	,00	-,01	-,07	-,03	-,05
THR	,07	,00	-,12	,08	,01	,04	-,05	,02	,00	-,03	-,06	,78
TWC	-,04	,05	,00	-,07	-,03	,01	-,01	-,01	,07	,01	,09	-,15
HPCOM	,01	,06	,03	,20	-,03	,10	,00	-,05	,04	,02	-,02	,17
MPT	-,03	-,05	-,06	-,08	,16	,01	,32	,08	,07	,04	,01	,01
SNIKE	-,02	,03	-,02	-,05	,07	-,07	,08	-,04	,04	,02	,01	-,04
THOME	-,03	,06	-,04	,02	,11	,03	,07	-,03	,04	-,01	,01	-,03
LLV	,10	,08	,00	-,02	-,09	,06	,15	,01	-,01	,00	-,20	,18
JHNS	,05	-,12	-,04	-,09	,12	,09	,27	-,04	-,05	-,06	,05	,03
YARIS	,11	-,16	,05	-,08	-,02	,04	-,02	-,06	,10	-,10	-,17	-,16
GLT	,05	,16	,03	,15	-,14	,11	-,12	-,01	,13	-,04	-,11	,09
SADID	-,03	,01	-,01	,05	-,03	,46	,11	,02	,12	-,11	,01	,14
JWALK	,05	-,01	-,08	-,02	-,01	,00	,23	,01	-,16	-,05	,14	,22
GOOGLE	,09	-,01	-,05	,13	-,01	,25	,33	-,06	,02	,22	-,10	-,02
TIKVES	-,04	,06	-,06	-,02	,03	,76	,04	-,05	,01	,00	-,02	,03
FLA	,12	-,07	,08	,07	-,01	-,04	,02	,01	-,36	-,06	-,01	-,07
PLST	-,02	,01	-,03	,06	-,09	,08	,01	,08	-,01	,04	-,06	-,07
AIRC	-,18	,01	-,15	,06	,05	-,09	,10	,04	-,16	-,01	-,03	,08
ONERE	,16	,02	-,36	,06	,05	,16	-,05	,02	-,01	-,03	-,11	-,18
SREDEP	,11	,08	-,09	,08	,09	-,06	-,08	,01	,05	-,01	-,13	-,04
NICEP	,19	-,02	-,25	-,13	,02	,15	,07	,00	,03	-,10	,11	-,15
MXC	,14	,04	-,27	-,01	-,07	,04	,10	,02	,06	-,30	,06	,02

COSEC	,04	,16	-,03	-,02	,01	,13	-,06	-,03	,03	,03	,00	,04
MUS	,16	-,02	-,15	,06	,02	,03	,23	,02	,01	,00	,15	,01
TEFLON	-,11	,11	,08	,06	-,09	,18	-,08	,13	,04	-,03	,06	,17
TRMOS	-,03	,06	,13	,07	-,08	,14	,08	,07	,19	,12	-,54	,25
BLB	,49	,23	,53	,12	-,02	,04	,02	-,01	-,11	-,08	-,06	-,12
EXTS	,54	-,03	,00	-,01	-,10	-,06	-,05	-,05	,13	-,10	,10	,04
MEKA	,18	,79	,04	,05	,03	,05	-,01	,03	,04	,04	-,03	,00
TXEX	,07	,50	-,09	,09	-,07	-,07	,06	,17	-,09	,06	,10	-,04
FCUK	,68	,22	-,05	-,01	,14	-,07	-,10	,02	-,06	,08	-,01	,10
PINAP	,01	,09	-,03	,75	,01	-,03	-,06	-,01	,03	,01	,00	,11
DANORIG	,07	-,12	-,19	,54	,16	,02	-,06	,42	-,04	-,06	,12	,00
FRSIM	,02	,05	-,03	,04	,00	,07	,05	-,03	,05	,06	-,05	-,02
CROSS	,13	,09	-,15	,26	,28	,09	,02	,11	-,31	,33	-,03	-,18
SWIDMI	,07	,04	,10	-,02	,15	-,14	,00	-,19	-,04	,34	,01	,26
DSG	-,06	,14	,10	,13	-,02	-,24	-,22	-,05	,21	-,17	,16	,17
LADYDI	,41	,30	-,12	,09	-,01	,15	,26	,04	,29	,13	-,06	,16
NESTTE	,01	-,05	-,05	,04	,03	-,15	,14	-,20	-,05	,20	-,09	-,06
MUST	,15	-,04	,10	,09	,01	,02	,09	,05	,08	-,01	-,04	,01
BUHL	,05	-,01	-,01	,01	,04	,04	,00	,00	,79	,14	,07	-,03
COLA	-,02	-,06	,28	,13	,13	,09	,06	-,06	,18	-,11	,11	-,05
INS	-,11	,15	-,03	,00	,08	,12	-,04	-,31	,06	,05	,06	-,13
PERIN	-,02	,02	,03	,06	,14	,09	,04	,10	-,05	-,02	-,04	,05
SPUMA	,03	,04	,04	-,05	,10	-,01	-,10	,11	,07	-,06	-,05	-,11
LADA	,05	,00	-,05	,01	,33	-,06	,02	,12	,21	-,12	-,21	,02
IKEA	,02	-,05	-,06	,07	,71	,04	-,09	-,02	,02	-,16	-,10	,01
PICCASO	-,03	,01	,06	,10	,30	,00	-,04	-,17	,22	,07	-,01	-,02
MAGI	,04	,02	,05	-,10	,08	-,04	,04	,00	,07	,06	,09	,03
LIVIA	,06	,06	-,16	,26	-,08	-,06	-,07	-,08	-,13	-,11	-,09	-,07
ZTRL	,04	-,02	-,04	-,05	-,02	,00	-,13	-,16	-,20	,23	-,13	,11
DVDF	-,02	,10	-,08	-,03	-,17	-,05	,03	-,10	-,03	,09	,19	,09
DRAW	-,05	,07	-,11	,02	-,27	-,09	,13	-,05	,03	,01	-,02	,02
MARCO	-,09	,02	,04	,35	,07	,09	,17	-,37	-,17	,08	-,08	-,16
MTHR	,01	-,17	,28	,09	,13	,05	,17	-,07	-,02	,10	,06	,25

INTD	,11	-,03	-,12	,13	-,22	,07	-,05	,08	,17	,03	-,02	-,06
UDRP	,28	-,05	,08	,11	-,13	,03	-,13	,11	-,02	,04	,03	,14
NARNOT	,08	-,25	,07	,09	,14	,12	-,07	,17	-,07	,26	,20	,05
FBINT	,01	-,04	,03	,02	,00	,02	-,04	-,09	,03	,00	-,11	-,01
FBMK	-,03	,08	-,03	,01	,07	-,01	,04	,23	,01	,03	,09	,01
AWFB	,16	,02	-,05	-,11	,01	,21	-,13	-,12	-,09	,10	,21	,12
SSQFB	-,02	,06	-,03	-,02	-,14	-,01	-,04	,10	,14	,74	-,04	-,02
PRIVFB	-,03	,16	,12	,05	-,05	-,02	,02	,73	-,01	,14	,01	,00
PER	,00	,06	,04	-,11	-,03	-,09	,05	,10	,00	,05	-,12	,07
VSGL	-,06	,03	-,09	-,11	,14	-,05	,03	,09	-,03	-,07	-,11	-,03
VIP	,01	,12	-,16	,01	,42	-,36	,15	-,23	-,02	,02	,17	,06
TMOB	-,05	-,06	,73	-,14	-,07	-,05	-,08	,10	,02	-,01	,02	-,10
ONE	,02	,02	,06	,05	-,08	,00	,00	,06	,14	-,01	,69	,01
BBR	-,05	-,01	,04	-,01	-,01	-,09	-,01	,05	,02	,05	,12	-,04
IPHONE	,02	-,01	,24	,10	-,06	-,10	,02	-,16	-,02	,09	,02	,02
LGMOB	-,22	,19	,11	-,03	,07	-,01	,09	-,06	,05	-,06	-,05	,10
MTRL	-,04	,03	-,04	-,15	,05	,05	-,05	,17	-,01	-,03	,14	-,05
NOKIA	,03	,02	,03	-,07	,04	,00	-,09	,04	-,06	,15	,03	,05
SAMSUNG	-,12	-,13	,04	,09	-,33	-,19	-,01	-,11	-,05	-,22	-,02	-,02
SIMENS	,08	-,20	,07	,09	-,03	-,10	,02	-,02	,06	-,03	,05	,05
SNERC	,09	,04	,09	,18	,20	-,11	,22	-,06	-,01	,07	,11	,16

---

### 6.2.5. Trademark Characteristics' Oblimin Factors (Pattern and Structure Matrixes)

In the oblimin rotations of the principle components, the principle of orthogonality is abandoned. In that cases, the transformations are calculated in a more difficult way (contrary to the varimax), but they're real since they do have scientific justification and larger significance in definition of trademark characteristics structure in intellectual property research.

For accomplishment of transformation of principal components in oblimin transformation numerous criteria are used. One of them is the direct oblimin criterion of Jenrich and Sampson (1966). This criterion of principal components oblimin rotation has several gradual transformations (rotations) of initial significant principal components, called cycle of iterations. Those iterations are performed until there is an oblimin criterion obtained, that should be minimized in order to achieve maximum parsimony of the isolated factors of the trademark characteristics. Three matrixes are obtained in this process, namely: 1) parallel projections (pattern matrix,); 2) orthogonal projections (structure matrix); and 3) correlation matrix among isolated factors (inter-correlation matrix).

Table 6 (pattern matrix) is in fact a basis for definition of the trademark characteristics factors and has greatest significance, while the other two matrixes (structure matrix and inter-correlation matrix (Table 7 and Table 8) along with the communalities ( Table 4 ) has supplementary significance for the isolated factors.

**Table 6. Oblimin Factors (Pattern Matrix) of the Trademark Characteristics**

	P1	P2	P3	P4	P5	P6	P7	P8	P9	P10	P11	P12	P13	P14	P15
TXTR	,10	,05	-,01	,16	-,32	,04	,30	,13	-,11	-,23	,10	-,04	-,02	,04	-,08
SEC	,03	,33	,18	-,08	,24	,20	,05	,29	,05	,17	,19	,12	,01	-,08	-,08
AROMA	-,05	,59	,10	,10	-,07	-,08	,04	-,04	,05	,03	,10	,00	-,13	-,02	,05
RING	,13	,14	,17	-,04	,03	-,02	-,10	-,02	,02	-,12	,28	,00	,16	,28	-,19
THR	-,02	,11	,06	,06	-,02	,01	-,07	,04	,02	,06	,07	,02	-,02	,05	,03
TWC	-,10	,07	,12	-,03	,01	,05	,10	,03	-,08	-,78	-,06	-,08	,01	,01	,00

HPCOM	-.02	.63	.08	-.04	.04	.02	.05	.22	.00	.13	-.07	.01	.03	-.01	-.05
MPT	.01	.03	.17	.23	-.01	-.03	-.20	-.06	.14	-.01	.00	-.22	.00	.19	.07
SNIKE	.06	.02	.75	-.04	-.01	-.02	.02	-.11	-.05	.05	-.05	.01	-.02	.00	.05
THOME	-.04	.01	.04	-.14	.01	.34	-.09	-.24	.18	-.06	-.05	-.14	.02	.33	.20
LLV	.11	-.13	-.20	-.05	.10	-.02	-.06	.03	-.01	-.62	.13	.00	-.06	.07	-.13
JHNS	.10	.59	.08	-.02	-.06	.05	-.10	-.08	.03	-.18	.00	-.01	.06	.08	.03
YARIS	-.04	.20	.39	.02	-.17	-.01	-.19	.04	.00	-.20	-.21	-.11	-.06	-.15	.04
GLT	-.27	.07	.35	.16	.10	-.16	-.31	.01	-.07	.14	.00	-.02	.04	-.03	-.10
SADID	.05	-.11	.05	-.01	-.05	-.05	-.78	.08	-.09	.09	.00	-.04	-.07	.02	-.04
JWALK	.03	.25	.64	.01	.01	.00	-.05	-.10	.08	-.08	.04	-.07	.05	.05	-.07
GOOGLE	.00	-.02	.18	.12	.02	-.04	-.14	-.04	.04	.00	-.04	-.14	-.12	.04	-.04
TIKVES	-.09	.22	-.19	-.01	.04	-.08	-.60	.01	.04	-.06	.08	.06	.14	.04	.07
FLA	.10	-.05	.11	-.11	-.05	-.09	-.08	-.36	.10	-.09	.09	-.01	.07	.05	-.15
PLST	.13	.15	.16	.03	.03	.11	-.23	-.01	-.13	-.03	.18	-.01	-.10	.08	-.18
AIRC	.24	.24	-.02	.13	.08	.12	.03	-.30	-.01	-.06	.12	-.24	.01	.00	-.08
ONERE	-.09	.26	-.18	.23	.02	.03	-.02	-.10	.00	.04	.05	.06	.11	.19	.15
SREDEP	-.06	.05	.13	.02	.16	-.04	.10	-.44	.01	-.08	.05	.11	.05	-.19	.09
NICEP	-.01	.15	-.26	-.07	.11	-.17	-.08	-.07	.05	.13	.07	-.25	.17	-.07	-.02
MXC	-.04	.11	-.10	-.09	.10	.20	-.12	-.10	.16	-.23	-.07	.11	.13	-.04	.12
COSEC	.05	-.09	.02	.13	.18	.02	-.06	.06	-.07	-.09	.21	.06	-.05	.04	-.02
MUS	.07	.08	-.02	-.07	.02	.02	-.01	.09	.05	-.01	.41	-.19	-.06	.18	-.03
TEFLON	-.04	-.09	-.04	-.10	.25	.01	-.15	-.34	.25	-.16	.04	-.08	.17	-.34	-.06
TRMOS	.07	.15	-.03	-.11	.01	.04	.04	-.08	.04	-.06	.03	-.07	.02	.10	-.07
BLB	.01	.05	.03	.06	.18	.03	.02	-.09	.00	.01	.07	.01	.09	.11	.03
EXTS	-.07	-.06	.01	.09	-.01	.02	.01	-.04	.01	.06	-.02	-.01	-.03	.06	-.05
MEKA	-.04	-.04	.06	-.09	.74	.00	-.03	.02	-.09	-.08	-.05	.03	-.07	.19	.08
TXEX	.07	.00	-.14	.06	.61	-.11	.08	.02	.06	-.01	-.10	-.18	-.03	-.03	-.18
FCUK	.00	.09	.04	-.03	.13	-.30	.13	.08	-.14	-.05	-.10	-.01	-.17	.28	.18
PINAP	-.11	.03	-.07	-.10	.08	.12	-.03	-.12	-.10	.23	.06	-.05	.04	.07	.00
DANORIG	.16	-.09	.04	.04	-.05	-.09	-.05	.09	.09	-.09	-.02	.01	-.02	-.04	.07
FRSIM	.09	-.02	.00	.02	-.01	-.03	-.24	.04	-.03	-.15	-.12	-.02	-.33	-.03	.00
CROSS	.00	.27	-.10	.06	.13	-.17	-.07	-.16	.09	-.14	-.17	.10	-.39	-.01	.21
SWIDMI	.09	-.07	.06	-.12	.04	.01	-.11	-.08	-.06	-.02	.22	-.02	-.64	-.09	.07

DSG	,06	,14	-,13	-,09	,21	,01	,12	,12	-,10	-,27	,12	-,08	-,01	-,35	-,02
LADYDI	,03	,02	-,06	-,10	,17	-,02	-,04	,06	-,04	-,06	-,04	,09	,01	,76	-,05
NESTTE	,03	-,04	,19	-,03	-,05	,04	,07	-,74	-,06	,11	,02	,00	-,13	,00	,02
MUST	,38	,10	-,20	-,05	-,02	,14	-,07	-,09	,00	,11	,14	-,30	-,07	,07	,05
BUHL	,08	-,03	-,03	,05	-,04	-,10	-,06	-,04	,05	-,09	-,01	-,07	-,07	,13	,01
COLA	,63	,03	-,05	,00	-,03	,14	-,04	-,11	-,05	-,07	-,03	,00	,13	-,05	,01
INS	,11	-,03	,07	,06	,14	,38	-,11	,00	,10	,15	,04	,14	-,12	,07	,16
PERIN	,66	-,07	,09	-,07	,04	,11	-,04	,00	,11	,09	-,04	-,07	,01	,07	,09
SPUMA	,67	-,03	-,10	-,09	,03	-,09	,12	,04	,05	-,07	-,16	-,14	,05	-,04	,08
LADA	,60	-,02	,15	-,04	-,04	-,15	,03	,13	,09	-,07	-,11	,20	,03	,15	,29
IKEA	,20	,02	-,02	,04	-,04	-,02	,01	-,01	,04	,06	,07	-,14	,07	-,02	,78
PICCASO	,53	,00	,12	,00	,05	,00	-,01	-,10	-,06	,06	,11	,02	-,09	,01	,11
MAGI	,62	,10	-,01	-,01	,00	-,13	-,06	-,07	-,05	-,02	,04	,06	-,17	,02	-,07
LIVIA	-,02	-,01	-,04	-,03	,07	,00	,03	,07	,12	-,11	-,03	,00	,04	-,02	-,01
ZTRL	,31	,05	-,34	,16	-,04	-,05	,07	-,31	-,02	-,01	-,05	-,06	-,15	,02	-,03
DVDF	,35	,05	,03	-,05	,10	,02	-,03	-,17	-,01	,09	,00	-,12	-,11	-,02	-,15
DRAW	,31	-,05	,06	,11	,11	,25	,05	-,14	-,04	-,07	,04	,05	-,04	-,04	-,17
MARCO	-,07	,14	,00	-,03	,03	,07	,08	-,14	-,21	-,04	,38	,03	,05	-,12	,14
MTHR	-,11	-,02	-,07	,00	-,12	-,09	-,03	-,03	,09	,01	,81	,04	-,04	-,07	,06
INTD	,12	-,12	,04	,06	-,07	-,01	-,03	-,02	-,03	,00	,09	,05	,02	,02	-,03
UDRP	-,09	-,06	,34	-,12	-,15	,10	,06	-,12	,26	-,05	,01	-,17	-,02	,20	-,04
NARNOT	-,06	,15	-,06	-,11	-,18	-,01	,02	-,06	,68	,05	,16	,05	-,17	-,02	,14
FBINT	,00	,00	,00	-,04	-,07	,06	-,02	,02	-,19	,06	-,04	-,82	-,07	-,07	,08
FBMK	-,09	-,04	,06	,01	,13	-,01	,03	,03	,12	-,14	,01	-,78	,05	-,02	,07
AWFB	,13	-,03	,07	,03	,00	-,08	,01	,08	,06	-,15	,00	-,08	,03	,05	-,03
SSQFB	-,14	,05	-,06	-,03	,05	-,05	,11	-,05	,21	,04	-,06	-,04	-,63	,13	-,21
PRIVFB	,05	-,13	,05	,37	,23	-,13	,05	,11	,44	,03	,03	-,18	,02	,05	-,14
PER	,13	-,01	,07	,04	,16	,09	,15	,12	,50	,20	-,01	,12	-,02	-,06	-,01
VSGL	-,09	-,04	,16	-,10	,05	,04	,02	,27	,10	-,02	,36	-,10	-,05	-,06	,33
VIP	-,03	-,07	,21	,18	,16	-,11	,22	-,14	-,30	,12	,18	,04	-,07	,05	,28
TMOB	,20	-,04	-,07	,06	-,08	-,01	,00	,17	,14	-,02	,12	-,01	-,05	-,26	-,14
ONE	,08	,16	,09	,07	,05	,10	,05	,04	,07	-,04	,02	,01	,10	,04	-,19
BBR	,01	,07	,01	,11	,00	-,09	,06	-,07	,05	-,04	,01	,08	,06	-,02	-,03



IPHONE	,13	-,03	-,15	-,17	-,04	,19	-,04	,14	-,13	,08	-,03	-,09	-,20	,04	-,06
LGMOB	-,04	,07	,00	,30	,11	,04	-,06	-,09	-,06	,02	,03	-,04	,06	,01	,09
MTRL	-,04	,09	,00	,75	,06	-,03	-,03	,01	,02	,04	-,10	-,07	,09	-,09	,06
NOKIA	-,05	-,03	,03	,24	,13	,44	-,11	,08	,02	-,11	-,09	,06	-,36	-,16	,14
SAMSUNG	-,11	,02	-,04	,09	-,11	,80	,15	,01	-,04	-,03	-,08	-,08	,08	,00	-,07
SIMENS	-,03	-,06	-,08	,72	-,16	,19	,05	,02	-,06	,03	,06	,15	-,01	-,03	-,03
SNERC	-,11	-,12	-,06	,27	,04	-,01	,02	-,03	-,03	-,17	,26	,10	-,03	,20	,13

Table 6 (continued).

	P16	P17	P18	P19	P20	P21	P22	P23	P24	P25	P26	P27	P28
TXTR	-,13	-,25	-,07	-,04	-,07	,01	,13	,01	,26	,05	-,05	,32	-,16
SEC	-,11	,04	-,02	-,14	,02	,09	,08	,11	,06	-,28	-,19	,07	-,26
AROMA	,07	,27	,20	-,02	,01	,00	-,04	-,03	-,14	,22	-,05	-,08	-,02
RING	,02	,10	,15	,03	,00	,14	-,10	-,14	,30	-,21	-,29	-,02	-,04
THR	,03	,03	-,05	-,01	-,12	-,80	-,04	-,12	-,02	,02	,05	,01	,00
TWC	,01	,02	,00	,16	,06	,15	,11	,02	-,02	,01	,13	-,03	,03
HPCOM	-,07	,07	-,12	,08	-,12	-,19	,07	,07	,10	-,08	,11	,07	-,05
MPT	-,16	-,26	,18	,17	,11	-,01	,14	-,05	,05	-,14	-,27	,13	,04
SNIKE	,08	,01	,03	,06	-,01	,05	,02	,00	,08	,03	,04	-,06	-,07
THOME	-,08	,02	,06	,17	,08	,06	,09	,04	-,22	-,04	-,08	,12	-,06
LLV	-,17	-,02	,04	-,08	-,22	-,14	-,04	-,02	,04	,01	,01	,04	-,08
JHNS	,05	-,17	,08	-,03	,02	-,03	-,02	-,01	,00	-,09	-,13	,18	,05
YARIS	-,25	-,11	,10	-,18	-,14	,11	,13	,10	,04	-,06	-,09	,03	,11
GLT	-,38	-,12	,00	,09	-,12	-,07	,22	,12	-,20	-,04	-,02	-,12	,02
SADID	,00	,08	-,08	-,07	,04	-,09	,04	-,04	,03	-,03	-,09	-,01	,02
JWALK	-,06	-,01	,02	,03	,14	-,24	-,14	-,02	,10	,00	,00	,00	-,06
GOOGLE	,01	,04	-,04	-,06	-,08	-,01	,00	,00	,69	,01	,07	-,04	,07
TIKVES	,10	-,02	,03	,13	-,06	,02	,02	,02	,16	,25	,20	,01	-,17
FLA	-,32	-,06	-,08	-,08	,00	,12	-,28	,13	-,24	,08	,03	,27	,10
PLST	,03	-,14	-,17	-,11	-,29	,25	-,11	-,13	-,37	-,01	,17	-,02	,08
AIRC	-,11	,12	-,10	,03	-,11	-,01	-,12	-,22	-,22	,04	-,01	,15	-,15
ONERE	-,15	,05	-,10	-,21	-,15	,21	-,05	-,16	-,13	,22	,11	-,17	-,08
SREDEP	,10	,04	-,16	-,35	-,28	,05	,06	-,04	-,03	,16	,01	,04	,06

NICEP	,02	-,18	,08	-,50	,00	,18	,00	-,21	,02	,01	,11	,02	-,01
MXC	-,09	,15	-,02	-,39	,13	-,13	,02	-,12	,09	,13	-,27	-,15	,07
COSEC	-,08	-,08	,04	,08	,06	-,05	,05	,03	,02	,77	-,07	,05	,00
MUS	-,04	,12	-,11	-,27	,13	,07	-,07	-,15	,05	,36	-,06	-,02	-,02
TEFLON	,12	-,15	-,05	-,05	-,09	-,19	,14	,02	,06	,01	,06	-,04	,09
TRMOS	,15	,10	-,02	,03	-,73	-,16	,09	,05	,06	-,08	,08	,02	-,08
BLB	-,02	-,04	,02	-,13	-,02	,08	-,06	,79	,03	,01	-,03	,01	-,01
EXTS	-,01	-,01	-,02	-,72	,01	-,04	,07	,16	,00	-,05	,12	,01	-,05
MEKA	-,01	,08	,03	,05	-,03	,00	,03	,22	-,05	,11	,02	-,05	-,08
TXEX	-,11	-,03	-,09	-,11	,05	,01	-,05	-,03	,11	,08	-,01	,13	,04
FCUK	-,05	-,23	,01	-,24	,13	-,21	-,07	,35	-,02	,11	-,03	-,18	-,01
PINAP	-,24	,00	-,62	,11	-,04	-,11	,13	,05	,01	-,08	-,01	,02	,13
DANORIG	,03	-,03	-,79	-,08	,06	-,01	-,08	-,11	,02	,00	-,07	-,06	-,11
FRSIM	-,14	,45	-,10	-,15	,03	,02	,01	-,02	,12	-,07	-,11	,03	-,25
CROSS	-,11	-,03	-,33	,08	,08	,12	-,21	,06	,19	-,06	-,09	,04	-,05
SWIDMI	-,03	,03	,05	-,09	,06	-,21	,00	,00	-,02	,02	-,10	,09	-,02
DSG	-,14	,02	-,10	-,10	,06	-,19	,31	,00	-,25	-,08	-,03	,00	-,01
LADYDI	,06	-,01	-,03	-,08	-,09	-,09	,17	,07	,02	-,03	,07	,00	,01
NESTTE	,06	,09	,02	-,06	-,05	,06	,04	,02	,07	-,10	-,11	-,09	-,06
MUST	,04	-,13	-,04	-,09	-,01	-,02	,06	,17	-,05	,01	-,17	-,23	-,05
BUHL	,04	,03	,03	-,10	,00	,06	,83	-,06	,00	,03	-,10	-,11	-,02
COLA	,15	-,07	-,10	,06	,08	,01	,22	,23	,16	,08	,03	,10	,05
INS	-,25	,13	,16	,02	,06	,19	,11	-,06	,04	,06	,29	,07	-,18
PERIN	,02	-,16	-,06	,17	,00	-,08	-,09	,05	,09	,12	,05	-,12	-,06
SPUMA	-,03	,01	,01	,02	-,04	,05	,03	,06	,01	-,03	,11	-,21	,00
LADA	-,16	,07	-,04	,02	-,16	-,05	,12	-,05	-,01	-,01	-,10	-,10	,18
IKEA	,05	,04	-,08	,04	-,02	-,04	,02	,01	,00	-,05	-,02	,06	-,09
PICCASO	-,13	-,16	-,03	,03	-,07	,07	,28	-,04	-,04	,23	,14	,23	,04
MAGI	,01	,11	,03	-,08	,07	,00	,04	-,02	-,12	-,05	,03	-,11	,01
LIVIA	-,70	,05	-,10	-,03	,03	,01	-,03	-,03	,03	,04	,02	-,06	-,03
ZTRL	-,29	-,11	,19	,18	-,01	-,17	-,05	,06	-,05	,02	,14	-,15	-,03
DVDF	-,14	-,02	,12	,10	,26	-,14	,05	-,03	-,02	-,19	,06	-,40	-,19
DRAW	-,10	-,11	,08	,05	,03	-,08	,03	-,06	,12	,00	-,08	-,48	-,08

MARCO	-.21	.04	-.10	.21	-.04	.16	-.06	.08	.39	.00	.16	-.26	.09
MTHR	.06	-.02	.01	.03	-.04	-.10	.02	.11	-.04	.08	.00	-.06	-.03
INTD	-.03	-.05	-.10	-.03	-.01	.02	.12	.00	.05	.00	.04	-.73	.11
UDRP	-.09	.27	-.15	-.17	-.01	-.12	-.03	.22	-.08	.28	.15	-.01	-.03
NARNOT	-.14	-.05	-.10	-.01	.16	-.03	.06	.07	.01	-.04	.12	.04	-.13
FBINT	-.04	.10	.03	-.05	-.07	.00	.04	.05	.10	.04	.04	.00	-.14
FBMK	.04	-.04	-.05	.02	.02	.01	.03	-.06	.02	-.04	.04	.04	.13
AWFB	-.04	-.03	.10	-.15	.03	-.06	-.10	-.05	.07	-.16	.76	-.02	.00
SSQFB	.12	-.03	-.01	.14	-.12	.10	.18	-.10	.10	.07	.09	-.09	.12
PRIVFB	.19	-.01	-.24	.12	-.15	.08	-.08	.07	-.16	-.05	-.10	-.12	-.02
PER	-.24	-.01	.22	-.17	-.19	-.08	-.01	-.06	.16	-.02	.05	.08	.13
VSGL	-.01	.00	.09	-.03	-.13	.11	-.15	-.15	-.11	-.07	-.03	-.40	.01
VIP	.05	.04	.02	-.07	.20	-.03	.00	-.20	.03	-.12	-.04	.19	.14
TMOB	.12	.19	.15	.07	-.05	.14	.03	.52	-.08	-.10	-.02	.10	.19
ONE	.28	.08	-.16	-.05	.54	.00	.18	.01	-.04	-.02	.23	.02	.10
BBR	-.03	.06	.02	.04	.09	.02	.04	-.04	.00	.05	-.03	-.10	.81
IPHONE	-.01	.02	.00	-.02	.03	-.02	-.07	.12	.10	-.10	.01	.05	.71
LGMOB	-.01	.69	.08	.08	-.06	-.05	.02	-.01	.05	-.09	-.01	.09	.15
MTRL	.08	.20	.07	-.01	.13	.02	.00	.00	.05	.09	.04	-.06	.03
NOKIA	.31	-.35	.01	-.11	-.06	-.06	-.12	.00	.02	-.06	.05	-.04	.14
SAMSUNG	.02	.02	.00	-.01	.00	-.03	-.09	.04	-.04	.03	-.10	-.09	.03
SIMENS	-.06	.01	-.04	-.11	.04	-.08	.08	.08	.08	-.05	.02	.00	-.02
SNERC	-.07	.01	-.07	.03	.05	-.07	.02	.04	.01	-.58	.16	.02	.09

Table 6 shows 28 statistically significant factors (trademark characteristics). Most of them exist and could comprehensively interpreted in larger extent.

The first factor is saturated (defined) by 10 tests (variables). Out of them, 6 have statistically significant saturations with values from 0, 50 to 0, 67, while the other 4 are with values from 0, 30 to 0, 50. Therefore, this situation also points out that this factor is stable and clearly defined. The first factor is saturated by the following tests: MUST (0,38); COLA (0,63); PERIN (0,66), SPUMA (0,67); LADA (0,60); PICASSO (0,53); MAGI (0,62); ZTRL (0,31); DVDF (0,35); DRAW (0,31).

Three tests (ZTRL, DVDF and DRAW) have simultaneous correlations with some of the other statistically significant isolated factors. ZTRL has statistically significant correlations with the third (-0.34) and with the eighth factor (-0, 31). Therefore, ZTRL has statistically valid values

for 3 factors (first, third and eighth). On the other hand, DVDF has statistically valid values for the first (-0,35) and the twenty-seventh factor (-0, 40). DRAW has statically significant value for the twenty-seventh factor (-0, 48). Consequently, DVDF and DRAW clearly define the seventh factor, since they have larger coefficients, i.e. their participation in the seventh factor is clearer. Thus, it can be assumed that ZTRL, DVDF and DRAW in the pattern matrix do not define precisely enough the first factor. Therefore, the first factor could be identified as **trademarks visual and figurative similarity factor.**

The second factor is saturated (defined) by 4 tests (variables). Those variables are SEC (0,33); AROMA (0,59); HPCOM (0,63); JHNS (0,59). Three of these tests have expressive saturations close to 0,60. Most valid represent in this sense is HPCOM. Also, all 4 tests do not have statically significant saturations in none of the other 24 factors. Therefore, these tests in larger extent clearly define this factor. This factor definition is even more complemented by the saturations (higher saturations in all 4 tests) in the structure matrix, presented at Table 7. Table 7 shows that two more tests (JWALK and AIRC) hypothetically join the defining of the second factor to their statistically significant saturations. The saturation is JWALK is 0,37, while the saturation of AIRC is 0,35. However, these saturations are not dominant in the defining of the second factor, since JWALK is dominant in the third factor (with coefficient of correlation 0,69) and AIRC is dominant in the eighth factor (coefficient of correlation -0, 41) and in the twelfth factor with lower saturation (-0,32). **The second factor cannot be entirely and clearly defined. It comprises of two variables that are combinations of letters and figurative elements and stylized letters, but the participation of two other variables (movie sequence and aroma) provides that this factor is only hypothetical.**

The third factor is saturated by four manifest variables: SNIKE, YARIS, GLT and JWALK. Two of these tests (SNIKE and JWALK) have high saturations. The saturation of SNIKE is 0,75 and JWALK is 0,64. YARIS has value of 0,39, while GLT is 0,35. The high degree of clear definition is an outcome of the fact that these four variables don't have any other statistically significant saturation with other factors in the pattern matrix. ZTRL and UDRP participate in this factor, but their participation is uncertain (and therefore declined), due to the multiple participation of ZTRL in three tests (first, third and eighth as explained above) and due to the low saturation of UDRP (0, 34) and the inability to logically identify the contribution of this tests for the identification of the factor . The pattern matrix (Table 6) values of the statistically significant third factors saturations (SNIKE, YARIS, GLT AND, JWALK) are also present in the structure matrix (Table 7) with even higher saturations' values. This is particularly refers to YARIS (0,45); GLT (0,42). Similarly higher saturation in the structure matrix is present at JWALK (0,69). SNIKE has identical coefficient both in the pattern and in the structure matrix. Having in mind the above circumstances, **the third factor can be identified as factor of distinctiveness (denominations) and figurative signs.**

The fourth factor is saturated by four tests: PRIVFB (0, 37); LGMOB (0,30); MTRL (0,75); SIEMENS (0,72). Higher saturations are noticed in two tests (MTRL and SIEMENS). These tests do not have saturations with any other factors. These saturations are also present in the structure matrix (Table 7) with similar corresponding values: SIEMENS (0,73), PRIVFB (0,33) and LG MOB (0,77), MTRL (0,77). Furthermore, in the structure matrix there is a

statistically significant saturation in the test SNERC (0, 33). SNERC value in the pattern matrix is near the statistical significance (0, 27). Because of the above circumstances, it can be assumed that SNERC also participates in the 4th factor. On the other hand, PRIVFB is not a classical trademark variable so its participation in the definition of the characteristic is only hypothetical. Hence, **the fourth factor** can be identified as **factor of trademark guarantee function.**

Two variables saturate the **fifth factor**: MEKA (0,74) and TXEX (0,61). By smaller but statistically significant saturation this factor is also defined by the test TXTR (0,32). However this test is present with similar saturation in the seventh and the twenty-seventh factor (0,30 and 0,32 respectively). The three saturations are almost corresponding in the structure matrix as well (MEKA 0,74); TXEX (0,64); TXTR (-0,32). Although there are statistically significant saturation **the hypothetical deciphering of the fifth factor is quite difficult to achieve.**

The **sixth factor** in the pattern matrix is saturated by the tests THOME (0,34); INS (0, 38); NOKIA (0,44) and SAMSUNG (0, 80). The same four tests also saturate the sixth factor in the structure matrix : THOME (0,34); INS (0, 40); NOKIA (0,41) and SAMSUNG (0, 80). Hypothetically, the **sixth factor** can be designated as **factor of telecommunications products.**

The TIKVES test (-0,60) , SADID (-0,78), YARIS (-0,37) and TXTR (0, 30) in the pattern matrix, define the **seventh factor**. In the structure matrix the tests that saturate the factor are TIKVES (-0,60), SADID (-0,78), YARIS (-0,37) and GLT (-0, 37). Having in mind the above situations, the seventh factor can be defined as **factor of stylized letters.**

The **eighth factor** in the pattern matrix is represented by five tests: FLA (-0,36); AIRC (-0,30); TEFLON (-0,34); NESTTE (-0,74); and ZTRL (-0,31). In the structure matrix the values of some of these tests are even higher: FLA (-0,42); AIRC (-0,42). Therefore the eighth factor can be nominated as factor of **descriptiveness (ingredient or quality) and trade dress similarity.**

Three variables in the pattern matrix saturate the ninth factor PRIVFB (0,44), PER (0,50); VIP (-0,30). Their saturations are almost repeated in the structure matrix: PRIVFB (0,45), PER (0,52); VIP (-0,34). These variables point one measurable characteristic, but due to the outer form of the tests, the circumstances don't provide a **clear determination of the ninth factor, i.e. its definition is not achievable.**

**The tenth factor** in the pattern matrix is saturated by: TWC (-0,78); LLV (-0,62). This factor is also saturated in the structure matrix as well: TWC (-0,76); LLV (-0,65). Both tests in both matrixes have very similar expressive corresponding saturations. Furthermore both tests don't have statistically significant tests in both matrixes with no other factor. Due to the above circumstances, the tenth factor can be reasonably defined as **color trademark factor.**

The eleventh factor's saturations in the pattern matrix are: MARCO (0,38); MTHR (0,81); MUS (0,41). In the structure matrix the values are MARCO (0, 42); MTHR (0,79); MUS (0,46). VSGL symbolically participates in the eleventh factor (0, 36) since its participation is present in the fifteenth and in the twenty-seventh factor . Considering the logical

constellations saturations of MARCO and MTHR, the **eleventh factor** could be rationally named **copyright and personality rights factor**.

Concerning the **twelfth factor**, it is saturated by FBINT (-0,82), FBMK (-0,78) in the pattern matrix, while their presence in maintained the structure matrix is FBINT (-0,79), FBMK (-0,78). Two more tests with low statistical saturations are present in the structure matrix, i.e. AIRC (0,32) and MUST (0,36), which don't define the twelfth factors since both tests have higher saturations in other factors (AIRC in the second factor and MUST in the first factor). Because of the consistency of FBINT and FBMK, this name of the factor would be **factor of social media regulation**.

The **thirteenth factor** is saturated by four tests: CROSS (-0,40), SWEDMI (0,64) and FRSIM (-0,33), SSQFB (-0,63), in the pattern matrix. The four tests of this factor have similar saturations in the structure matrix as well: CROSS (-0,42), SWEDMI (0,67) and FRSIM (-0,59), SSQFB (-0,59). Since FRSIM is present with higher saturation in the eighteenth factor, it is logically excluded from the thirteenth factor. Although SSQFB belongs to this factor methodologically and statistically (especially since it's present in both matrixes), but its belonging is questionable from logical point of view. CROSS and SWEDMI have similar values in both matrixes and they are logically coherent. As a consequence, the thirteenth factor would be named **factor of religious symbols and geographical indications**.

The **fourteenth factor** is saturated by the following tests in the pattern matrix: LADYDI (0,76); DSG (-0,35); THOME (0,33), TEFLON (-0,35). In the structure matrix their values are: LADYDI (0,75); DSG (-0,35); THOME (0,37), TEFLON (-0,34). Due to the dominant leading position and the highest hypothetical strength of one variable (LADYDI), as well as the aspect that the other three variables participate with higher values in other factors, the fourteenth factor can be designated as **factor of bad faith trademark application**.

As far as the **fifteenth factor** is concerned, its highest representative is IKEA (0,78). The values of IKEA are the same both in the pattern and in the structure matrix. Significantly lower are the structure matrix saturations of VSGL (0,35), VIP (0,33), LADA (0,30). Out of them only VSGL is also present in the pattern matrix. VSGL, VIP and LADA also participate with lower saturations in other factors. The prevailing presence of IKEA, provides that the fifteenth factor could be nominated **factor of phonetical (aural) similarity**.

In the sixteenth factor, highest and independent is the saturation of LIVIA, with values of -0,71 both in the pattern matrix and in the structure matrix. Besides, this test in the pattern matrix, following tests have lower but still statistically significant saturations that are the same time similar between each other: GLT (-0,38); FLA (-0,32); NOKIA (0,31). Such coefficient are also present in the structure matrix: GLT (-0,39); FLA (-0,34); NOKIA (0,31) and ZTRL (-0,32). Since these tests have statistically significant saturations in other factors, although hypothetically, their participation in the sixteenth factor is complicated to define. From the above data, especially due to the highest validity of the saturation of LIVIA in the pattern matrix and the participation of ZTRL, the **sixteenth factor** can be named **trademark conceptual similarity factor**.

Following tests saturate the **seventeenth factor** in the structure matrix: AROMA (0,34), NOKIA (0,35), FRSIM (0,45), LGMOB (0,70). In the pattern matrix three tests saturate the factor FRSIM (0,45); LGMOB (0,70) and NOKIA (0,35). From methodological aspect LGMOB prevails, while the other tests participate in other factors. However, although stable from methodological aspect, the 17th factor is questionable from theoretical and logical aspect. **Hence, the 17th factor can't be clearly defined.**

The **eighteenth factor** in the pattern matrix is saturated by DANORIG (-0,79) and PINAP (-0,62). IN the structure matrix, the coefficients are PINAP (0,63), DANORIG (-0,78). The participation of CROSS for stable definition of this factor is uncertain, having in mind CROSS values in both matrixes (-0,34 in the pattern matrix, -0,35 in the structure matrix), and since it also participates in other factors (thirteenth). Therefore, the eighteenth factor could be identified as **factor of deceptiveness (nature, quality and origin of product).**

The **nineteenth factor** in the pattern matrix is saturated by: NICEP (-0,50), MXC (-0,40); EXTS (-,72); SREDEP (0,35). In the structure matrix their coefficients are NICEP (-0,53), MXC (-0,46); EXTS (-,69); SREDEP (-0,42), MUS (0,36). Having in mind the similar values in both matrixes the nineteenth factor can be designated as **factor of description of value, purpose, origin of good or services.**

Regarding the **twentieth factor**, in the pattern matrix it is saturated by two tests TRMOS (-,073) and ONE (0,54). In the structure matrix, this factor has four tests: PLST (-0,36); TRMOS (-,073) and ONE (0,53). Since the participation of ONE lacks sufficient hypothetical ground, the twentieth factor would be mostly defined by TRMOS and PLST. Consequently it can be nominated **genericness factor.**

The **twenty-first factor** is saturated by only one test THR with quite high saturation (-0,80) in the pattern matrix. In the structure matrix THR is also sole, with saturation of -0,77. In other words, in both matrixes, the test doesn't have any other statistically significant saturation with other factors. Furthermore, THR has coefficients that are among the highest in the entire factorization of the tests. This points out that this factor from methodological and statistical aspect, has expressive stability and independence compared to other factors. According to this indicator, the twenty-first factor can be nominated **factor of three-dimensionality.**

Regarding the twenty-second factor in the pattern matrix it is mainly saturated by BUHL (0,83). In the structure matrix the value of BUHL is 0,82. Other tests participate with expressively low saturations and have insufficient contribution for definition of the twenty-second factor, such as COLA (-0,32); PICASSO (0,34); DSG (0,34) (in the structure matrix) and only one in the pattern matrix (DSG 0,30).

The fact that the BUHL test has high statistically significant saturation and that it doesn't saturate any other factor, makes the BUHL test quite independent and stable. Therefore, the high validity of BUHL provides and the circumstances of the other tests, provide that the twenty-second factor can be defined as **factor of identical or similar goods and services.**

The twenty-third factor is saturated by three variables in the pattern matrix: BLB (0,79); FCUK (0,35); TMOB (0,52). In the structure matrix BLB (0,77); FCUK (0,37); TMOB (0,52). All three tests don't have other saturations with any other factor. However, apart from the stable and logically clear saturations of BLB and FCUK, the participation of TMOB is not comprehensible in sufficient extent. Therefore, the twenty-third factor can be designated as **public order and morality factor.**

Four variables define the **twenty-fourth factor** in the pattern matrix: RING (0,30); GOOGLE (0,69); PLST (-0,37) and MARCO (0,39). The coefficient in the structure matrix are RING (0,30); GOOGLE (0,69); PLST (-0,38) and MARCO (0,38). Although the saturation of GOOGLE is methodologically and statistically significant, because of the participation of RING, **the twenty fourth factor can't be clearly defined.**

The **twenty-fifth factor** has saturation of three tests, COSEC (0, 77), MUS (0,36), SNERC (-0,58) in the pattern matrix. In the structure matrix their coefficients are COSEC (0, 77), MUS (0,42), UDRP (0,33), SNERC (-0,52). Due to the logical coherence of COSEC and MUS in both matrixes, the twenty fifth factor can be nominated **factor of description of time of production or technical characteristics of goods.**

The **twenty-sixth factor** is saturated by one statistically significant correlation: AWFB (0,76) in the pattern matrix. In the structure matrix this test also has independent and almost identical value as in the pattern matrix (0, 74). There is one low saturation of RING (-0,32), which is present in the structure matrix only. Since AWFB is present with higher saturations in both matrixes, the twenty sixth factor can be named **factor of Facebook user regulations awareness.**

Regarding the twenty seventh factor, it has several statistically significant saturations. In the pattern matrix: TXTR (0,32); DWDF (-0,40); DRAW (-0,48); INTD (-0,73); and VSGL (-0,40). In the structure matrix the coefficients are TXTR (0,34); DWDF (-0,46); DRAW (-0,54); INTD (-0,75); and VSGL (-0,42). Concerning the participation of TXTR, DWDF, TXTR is in two other factors and the participation of DWDF and DRAW in the first factor and also due to the high saturation of INTD, the **twenty-seventh factor** can be nominated as **factor of frequency of internet search engines use and cybersquatting.**

The last, **twenty-eighth factor** is saturated by two variables in both matrixes, i.e. they are independent, not related with any other factors. They have similar values and have high saturations in the matrixes. In the pattern matrix the values are BBR (0,81); IPHONE (0,71). In the structure matrix, the values are BBR (0,82; IPHONE (0,68). Due to the similarity, independence and the circumstances above, the twenty eighth factor can be defined **factor of estimation of product quality.**



**Table 7. Oblimin Factors (Structure Matrix) of the Trademark Characteristics**

	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11	S12	S13	S14	S15
TXTR	,11	,08	-,02	,13	-,32	,06	,29	,13	-,14	-,27	,07	-,02	-,01	,04	-,07
SEC	,02	,41	,24	-,07	,21	,24	,00	,28	,07	,16	,21	,10	,00	-,04	-,04
AROMA	-,06	,61	,18	,09	-,04	-,05	-,04	-,10	,09	,03	,18	-,02	-,10	,02	,10
RING	,12	,24	,27	-,01	,01	,02	-,16	-,04	,02	-,13	,28	-,03	,13	,30	-,13
THR	-,01	,13	,07	,04	,04	,01	-,10	,01	,05	,05	,08	,01	-,06	,05	,05
TWC	-,04	,09	,10	-,02	,02	,02	,08	,00	-,08	-,76	-,07	-,10	,04	,02	-,04
HPCOM	-,02	,63	,14	-,04	,06	,04	,01	,19	,05	,09	-,03	,00	,02	,02	-,05
MPT	,06	,10	,29	,23	-,01	-,01	-,26	-,10	,12	-,04	-,01	-,24	-,03	,24	,09
SNIKE	,06	,11	,75	-,01	-,03	,01	-,05	-,16	-,02	,07	-,02	,00	-,05	,09	,10
THOME	,04	,10	,13	-,16	,00	,34	-,16	-,30	,19	-,05	-,01	-,18	,02	,37	,21
LLV	,18	-,06	-,22	-,09	,16	-,05	-,08	-,01	,02	-,65	,13	-,07	-,09	,08	-,15
JHNS	,11	,62	,19	-,03	-,04	,07	-,17	-,14	,06	-,23	,04	-,08	,06	,12	,03
YARIS	,00	,27	,45	,00	-,13	,00	-,26	,00	,04	-,24	-,19	-,13	-,08	-,10	,04
GLT	-,21	,14	,41	,16	,15	-,16	-,37	-,03	-,03	,12	,03	-,02	,03	,05	-,06
SADID	,05	-,04	,11	-,04	-,01	-,07	-,78	,03	-,06	,06	-,01	-,08	-,13	,06	-,02
JWALK	,05	,37	,69	,02	,03	,02	-,15	-,18	,13	-,09	,08	-,12	,01	,15	-,01
GOOGLE	,04	,04	,21	,16	,06	-,02	-,17	-,04	,06	-,04	-,05	-,13	-,18	,07	-,02
TIKVES	-,07	,27	-,14	-,04	,06	-,09	-,60	-,04	,08	-,08	,10	,00	,12	,09	,06
FLA	,10	,04	,13	-,16	-,02	-,09	-,11	-,41	,14	-,13	,12	-,08	,08	,11	-,13
PLST	,11	,20	,17	,00	,07	,09	-,26	-,11	-,05	-,05	,26	-,08	-,08	,10	-,18
AIRC	,26	,35	,03	,08	,13	,14	-,05	-,41	,06	-,11	,22	-,32	,01	,05	-,04
ONERE	-,09	,31	-,12	,20	,10	,00	-,06	-,18	,05	,02	,18	,04	,11	,20	,19
SREDEP	-,06	,12	,12	,03	,23	-,04	,04	-,46	,05	-,12	,12	,05	,06	-,17	,09
NICEP	-,01	,18	-,26	-,08	,17	-,18	-,10	-,09	,11	,05	,10	-,30	,19	-,10	-,05
MXC	,00	,19	-,06	-,09	,18	,17	-,16	-,14	,18	-,27	-,01	,05	,10	-,05	,14
COSEC	,08	-,04	-,02	,09	,20	-,02	-,09	-,05	-,04	-,13	,22	,04	-,06	,09	,03
MUS	,10	,18	-,01	-,10	,09	,01	-,07	-,02	,10	-,06	,46	-,22	-,07	,21	,03
TEFLON	,02	-,06	-,08	-,09	,31	,02	-,16	-,33	,28	-,20	,01	-,17	,16	-,34	-,11
TRMOS	,09	,19	,00	-,15	,05	,06	-,03	-,09	,10	-,09	,06	-,12	,01	,10	-,11
BLB	,06	,06	,06	,03	,20	,06	,03	-,09	,03	-,01	,05	,00	,05	,14	,01

EXTS	-.06	-.01	.01	.07	.07	.02	.01	-.03	.05	.02	.00	-.02	-.05	.04	-.05
MEKA	.02	.00	.07	-.07	.74	-.04	-.08	-.03	-.03	-.10	-.03	.00	-.12	.24	.08
TXEX	.09	.03	-.17	.06	.64	-.14	.06	-.01	.12	-.09	-.10	-.21	-.04	-.03	-.20
FCUK	.08	.06	.05	-.06	.19	-.32	.09	.06	-.11	-.09	-.10	.00	-.22	.31	.20
PINAP	-.06	.05	-.05	-.10	.14	.10	-.04	-.16	-.08	.18	.10	-.06	.02	.09	.02
DANORIG	.13	-.05	-.03	.00	.03	-.13	-.05	.03	.10	-.13	.01	-.04	-.06	-.02	.09
FRSIM	.12	.09	.06	.00	.03	-.03	-.29	.01	-.01	-.16	-.08	-.04	-.37	.02	.04
CROSS	.05	.28	-.04	.06	.17	-.18	-.11	-.19	.10	-.18	-.12	.06	-.41	.05	.25
SWIDMI	.18	-.02	.08	-.12	.07	.02	-.16	-.12	-.05	-.03	.22	-.05	-.67	-.04	.12
DSG	.12	.14	-.18	-.10	.25	.01	.11	.09	-.09	-.31	.12	-.11	.00	-.35	-.05
LADYDI	.09	.05	.01	-.10	.21	-.05	-.08	.03	-.01	-.09	-.03	.06	-.04	.75	-.04
NESTTE	.11	.03	.25	.00	-.02	.09	-.01	-.73	-.06	.10	.07	-.05	-.16	.05	.08
MUST	.49	.11	-.16	-.11	.04	.16	-.12	-.17	.04	.05	.18	-.36	-.13	.08	.05
BUHL	.20	.01	.02	.06	.03	-.08	-.13	-.06	.04	-.13	-.02	-.10	-.10	.14	.01
COLA	.66	.03	-.07	-.03	-.01	.18	-.02	-.16	-.05	-.12	-.05	-.07	.05	-.03	-.03
INS	.15	.08	.12	.09	.13	.40	-.12	-.06	.12	.17	.11	.14	-.15	.13	.20
PERIN	.70	-.05	.06	-.12	.06	.12	-.06	-.09	.13	.06	-.02	-.15	-.10	.13	.10
SPUMA	.71	-.05	-.14	-.13	.07	-.08	.12	-.01	.07	-.11	-.14	-.20	-.03	-.02	.05
LADA	.59	.00	.17	-.05	.00	-.15	.01	.06	.09	-.09	-.07	.17	-.07	.19	.30
IKEA	.19	.06	.02	.03	-.04	.00	-.01	-.06	.02	.07	.13	-.11	.01	.02	.78
PICCASO	.57	.07	.12	-.03	.09	.02	-.05	-.21	-.03	.00	.14	-.04	-.15	.09	.13
MAGI	.65	.11	-.01	-.04	.05	-.11	-.08	-.13	-.03	-.05	.08	-.01	-.24	.06	-.04
LIVIA	.06	.08	-.02	-.05	.13	-.02	.00	.01	.15	-.15	.03	-.01	.00	.03	.04
ZTRL	.43	.01	-.31	.12	.02	-.03	.06	-.34	-.01	-.05	-.02	-.09	-.21	.04	-.01
DVDF	.48	.07	.04	-.05	.13	.05	-.08	-.21	.01	.07	.03	-.18	-.20	.03	-.11
DRAW	.42	-.03	.05	.11	.15	.27	.02	-.19	-.02	-.09	.09	.00	-.12	-.02	-.12
MARCO	.01	.15	.02	.05	.04	.10	.09	-.16	-.22	-.04	.42	.07	.02	-.09	.20
MTHR	-.07	.03	-.06	.01	-.08	-.05	-.03	-.05	.06	.03	.79	.03	-.03	-.05	.11
INTD	.22	-.16	.01	.08	.01	-.01	-.03	-.04	-.03	.00	.12	.04	-.05	.01	.00
UDRP	-.04	.07	.34	-.16	-.07	.10	-.01	-.20	.32	-.06	.04	-.20	-.04	.26	-.02
NARNOT	.02	.21	-.01	-.12	-.12	.02	-.02	-.08	.67	.05	.16	-.01	-.17	.03	.15
FBINT	.09	.06	.01	-.09	-.05	.08	-.09	-.05	-.12	.01	-.01	-.79	-.09	-.05	.05
FBMK	-.03	.01	.05	-.01	.17	-.02	-.02	-.03	.18	-.19	.00	-.78	.07	-.03	.00

AWFB	,14	-,01	,01	,05	,05	-,08	,06	,07	,10	-,15	,00	-,09	,00	,05	-,07
SSQFB	-,03	,00	-,05	,00	,08	-,05	,06	-,03	,21	,03	-,08	-,05	-,59	,12	-,21
PRIVFB	,02	-,12	,02	,33	,27	-,13	,03	,09	,45	,03	,03	-,21	,02	,04	-,16
PER	,12	,03	,09	,06	,19	,11	,14	,12	,52	,17	-,01	,11	-,04	-,06	-,02
VSGL	-,08	-,02	,16	-,07	,05	,03	-,01	,22	,11	,04	,41	-,08	-,05	-,06	,35
VIP	-,08	-,06	,22	,26	,12	-,10	,23	-,14	-,34	,13	,20	,12	-,07	,05	,33
TMOB	,15	-,11	-,08	,05	-,11	,03	,07	,22	,11	,01	,03	,01	-,04	-,28	-,20
ONE	,06	,14	,05	,11	,07	,12	,10	,03	,06	-,03	-,01	-,01	,11	,02	-,20
BBR	-,03	-,05	,02	,18	,03	-,10	,12	-,06	,02	-,05	-,03	,13	,08	-,08	-,06
IPHONE	,13	-,16	-,15	-,12	-,04	,18	,05	,16	-,14	,06	-,08	-,04	-,21	-,04	-,11
LGMOB	-,11	,12	,09	,35	,11	,06	-,05	-,09	-,06	,05	,07	,02	,06	,01	,10
MTRL	-,11	,08	,03	,77	,08	-,01	,01	,00	,01	,06	-,07	-,01	,09	-,10	,07
NOKIA	-,04	-,10	,00	,26	,13	,41	-,06	,08	,02	-,09	-,09	,05	-,36	-,20	,10
SAMSUN G	-,09	,00	-,04	,09	-,13	,80	,18	,00	-,03	,01	-,04	-,05	,11	-,07	-,09
SIMENS	-,06	-,07	-,06	,73	-,13	,21	,11	,05	-,11	,05	,07	,21	-,02	-,06	,00
SNERC	-,09	-,11	,00	,33	,05	,01	,08	,02	-,08	-,12	,24	,15	-,05	,18	,14

Table 7 (continued).

	S16	S17	S18	S19	S20	S21	S22	S23	S24	S25	S26	S27	S28
TXTR	-,14	-,26	-,06	-,03	-,05	,00	,14	,03	,29	,00	-,03	,34	-,15
SEC	-,18	,11	,00	-,15	,01	,04	,09	,10	,09	-,29	-,21	,09	-,28
AROMA	,00	,34	,18	-,09	,00	,05	-,06	-,10	-,13	,23	-,06	-,05	-,12
RING	-,05	,14	,18	,05	,00	,15	-,10	-,18	,30	-,22	-,32	-,02	-,09
THR	-,03	,03	-,08	-,05	-,10	-,77	,02	-,07	,01	,00	,03	-,02	-,04
TWC	-,01	-,01	-,02	,11	,04	,13	,13	,03	,02	,02	,11	,02	,06
HPCOM	-,14	,11	-,12	,03	-,13	-,19	,12	,09	,14	-,11	,11	,11	-,13
MPT	-,19	-,24	,20	,19	,12	-,03	,17	-,04	,08	-,19	-,31	,13	,01
SNIKE	,00	,05	,08	,07	-,01	,06	,04	,00	,10	-,02	-,02	-,05	-,07
THOME	-,14	,02	,05	,16	,07	,06	,09	,05	-,22	,01	-,11	,13	-,14
LLV	-,23	-,08	-,04	-,15	-,24	-,17	,01	,00	,06	,07	,03	,01	-,09
JHNS	-,05	-,14	,07	-,06	,00	-,03	,02	-,02	,03	-,07	-,16	,23	-,04
YARIS	-,28	-,10	,12	-,17	-,16	,08	,16	,11	,08	-,08	-,14	,09	,06

GLT	-,39	-,09	,01	,08	-,16	-,10	,25	,13	-,18	-,07	-,04	-,09	,00
SADID	-,03	,07	-,07	-,06	,02	-,10	,08	-,05	,04	-,02	-,17	-,03	-,04
JWALK	-,16	,04	,03	-,01	,11	-,22	-,08	-,02	,13	-,04	-,07	,02	-,12
GOOGLE	-,03	,04	-,03	-,06	-,07	-,04	,04	,00	,69	-,03	,06	-,07	,06
TIKVES	,03	,00	,00	,06	-,11	,04	,03	-,04	,13	,32	,18	,01	-,25
FLA	-,34	-,07	-,13	-,13	-,06	,14	-,26	,11	-,30	,16	,03	,27	,04
PLST	-,01	-,13	-,19	-,15	-,35	,28	-,10	-,15	-,38	,06	,17	-,02	,03
AIRC	-,20	,12	-,15	-,06	-,13	,03	-,10	-,26	-,22	,12	,00	,12	-,24
ONERE	-,19	,10	-,15	-,27	-,18	,25	-,10	-,24	-,16	,32	,15	-,14	-,17
SREDEP	,03	,05	-,24	-,42	-,30	,06	,03	-,09	-,09	,27	,05	,04	,07
NICEP	,01	-,16	-,01	-,53	-,06	,18	-,05	-,27	-,05	,14	,13	,03	-,06
MXC	-,14	,18	-,08	-,46	,12	-,15	,01	-,15	,09	,19	-,28	-,13	-,02
COSEC	-,11	-,07	-,01	-,02	,03	-,03	,07	,01	-,01	,74	-,01	,00	-,06
MUS	-,11	,16	-,17	-,36	,08	,10	-,10	-,20	,01	,42	-,04	-,04	-,15
TEFLON	,10	-,19	-,12	-,11	-,14	-,22	,16	,03	,01	,06	,08	-,06	,14
TRMOS	,06	,06	-,06	,00	-,73	-,15	,11	,07	,04	-,02	,12	,01	-,10
BLB	-,07	-,05	-,02	-,11	-,03	,01	,01	,77	,02	,02	,01	,02	,02
EXTS	-,04	,01	-,09	-,69	,00	-,08	,07	,14	-,01	,02	,13	,03	-,04
MEKA	-,09	,07	-,04	-,03	-,05	-,06	,08	,23	-,04	,14	,04	-,10	-,07
TXEX	-,12	-,05	-,17	-,20	,02	-,04	-,02	-,02	,09	,11	,04	,07	,04
FCUK	-,12	-,23	-,05	-,24	,13	-,27	-,02	,37	,00	,12	-,02	-,18	-,03
PINAP	-,24	,00	-,63	,06	-,06	-,15	,15	,09	-,02	-,07	,01	,03	,08
DANORIG	-,01	-,04	-,78	-,15	,05	-,05	-,07	-,11	,02	,05	-,06	-,07	-,12
FRSIM	-,21	,45	-,11	-,19	,05	-,02	,03	-,04	,17	-,03	-,15	,01	-,30
CROSS	-,19	-,01	-,36	,00	,08	,06	-,19	,04	,22	-,01	-,09	,02	-,10
SWIDMI	-,11	,03	,01	-,12	,06	-,25	,03	,02	,02	,03	-,12	,01	-,07
DSG	-,16	-,01	-,16	-,17	,04	-,24	,34	,04	-,22	-,06	-,02	-,01	-,01
LADYDI	-,03	-,03	-,07	-,07	-,09	-,12	,20	,13	,04	,01	,09	,00	-,03
NESTTE	-,02	,10	,01	-,04	-,02	,04	,02	-,01	,05	-,04	-,11	-,10	-,06
MUST	-,04	-,16	-,07	-,08	-,01	-,07	,11	,17	-,05	,05	-,14	-,29	-,12
BUHL	-,02	,01	,01	-,08	,02	-,03	,82	-,01	,02	,05	-,08	-,12	-,01
COLA	,08	-,14	-,09	,08	,10	-,06	,32	,28	,18	,07	,05	,03	,05
INS	-,31	,16	,17	,01	,04	,17	,12	-,06	,07	,08	,27	,02	-,24

PERIN	-.06	-.21	-.04	.17	.00	-.12	.01	.10	.12	.11	.06	-.22	-.11
SPUMA	-.08	-.07	.00	.03	-.03	-.01	.11	.10	.04	.00	.14	-.29	-.02
LADA	-.24	.03	-.01	.03	-.13	-.09	.19	.00	.04	-.02	-.09	-.16	.12
IKEA	-.04	.04	-.08	.04	.02	-.04	.02	-.02	.01	-.02	-.05	.01	-.15
PICCASO	-.23	-.19	-.05	.00	-.09	.03	.35	.01	-.03	.25	.16	.14	-.02
MAGI	-.08	.07	.02	-.07	.07	-.04	.11	.00	-.07	-.01	.03	-.19	-.04
LIVIA	-.71	.05	-.14	-.10	-.01	-.03	-.01	-.02	.04	.07	.03	-.05	-.12
ZTRL	-.32	-.16	.16	.18	.00	-.20	.01	.09	-.01	.05	.19	-.22	-.06
DVDF	-.20	-.04	.13	.12	.26	-.20	.12	.01	.03	-.17	.04	-.46	-.22
DRAW	-.14	-.12	.09	.06	.04	-.13	.09	-.03	.17	-.02	-.06	-.53	-.08
MARCO	-.23	.06	-.10	.19	-.06	.16	-.06	.03	.38	-.01	.17	-.28	.05
MTHR	.01	.01	-.03	-.01	-.07	-.07	-.02	.05	-.08	.12	.02	-.10	-.07
INTD	-.03	-.06	-.08	.00	-.02	-.02	.13	.01	.07	.00	.07	-.75	.12
UDRP	-.16	.27	-.19	-.23	-.05	-.11	-.02	.22	-.11	.33	.16	.02	-.11
NARNOT	-.21	-.01	-.12	-.06	.10	-.06	.03	.07	.00	.03	.13	.04	-.20
FBINT	-.05	.06	.00	-.06	-.07	-.01	.05	.03	.08	.06	.01	-.01	-.20
FBMK	.05	-.08	-.09	-.03	-.01	.01	.04	-.06	-.01	-.02	.04	.03	.11
AWFB	-.05	-.06	.07	-.14	-.02	-.05	-.05	-.03	.09	-.10	.74	-.05	.01
SSQFB	.12	-.04	-.02	.11	-.14	.07	.15	-.05	.11	.06	.14	-.11	.13
PRIVFB	.19	-.02	-.24	.07	-.17	.07	-.08	.06	-.17	-.04	-.03	-.16	.05
PER	-.24	.01	.20	-.19	-.21	-.09	.00	-.03	.16	-.03	.09	.03	.12
VSGL	-.02	.04	.10	-.04	-.15	.14	-.21	-.21	-.11	-.06	-.05	-.42	-.03
VIP	.04	.08	.02	-.05	.25	-.01	-.02	-.22	.05	-.15	-.07	.15	.17
TMOB	.17	.13	.18	.11	-.04	.12	.07	.52	-.07	-.16	.00	.08	.27
ONE	.28	.09	-.15	-.05	.52	-.01	.21	.05	-.02	-.04	.22	.04	.13
BBR	.07	.03	.04	.05	.09	.04	.06	-.01	.00	-.02	.00	-.09	.82
IPHONE	.09	-.04	.02	.03	.04	-.04	.00	.19	.12	-.19	.02	.03	.68
LGMOB	-.01	.70	.09	.06	-.01	-.02	.03	-.05	.08	-.11	-.03	.08	.14
MTRL	.11	.24	.09	-.01	.17	.04	.01	-.05	.10	.03	.05	-.06	.08
NOKIA	.31	-.35	.03	-.09	-.05	-.08	-.07	.03	.08	-.11	.05	-.06	.21
SAMSUNG	.08	.03	.05	.02	.03	-.01	-.08	.06	-.01	-.03	-.08	-.04	.03
SIMENS	-.03	.04	.00	-.06	.09	-.07	.11	.07	.15	-.12	.04	.00	.05
SNERC	-.08	.01	-.06	.08	.07	-.09	.04	.05	.07	-.57	.13	.01	.15

### 6.2.6. Inter-correlation of Statistically Significant Oblimin Factors

Table 8 shows the Inter-correlation of the Statistically Significant Oblimin Factors. It is visible that most of the correlations do not have statistically significant association at the level of 0,05 (5%). The small number of statistically significant correlations is manifested through 8 values. Out of them, only 2 values have positive correlations between the factors (hypothetical trademarks characteristics): between the 1st and the 22nd factors (0,12) and between the 16th and the 28th factor (0,12).

Besides that, 6 correlations have negative associations: between the 1st and the 13th factor (-0,12); between the 1st and the 27th factor (-0,13); between 2nd and the 28th factor (-0,14); between the 8th and the 25th factor (-0,12); between the 19th and the 25th factor (-0,12). These correlations (no matter if positive or negative) have low statistical significance. This is an outcome of the fact that all these correlations have higher values than the border level of significance ( $p=0,05$ ) for above 200 degrees of freedom (df). In other words, all coefficients higher than 0,11 have statistically significant correlation of the level of 0,05. The definition of the correlations with low statistical significance is due to their value of 0,11.

According to the high number of statistically insignificant correlations and because of the low number of statistically significant but low correlations (no matter if positive or negative), one can consider that **all primary isolated factors are independent and autonomous, thus they define different trademark characteristics.** According to this, the number and the nominations of the 28 factors in considerable amount overlap with the definition of existing trademark characteristics that are empirically used in industrial property law theory, practice and jurisprudence.

However, both the relations of the low statistically insignificant associations and the relations of the statistically significant association (positive or negative), have imposed a methodological necessity and the indispensability for more comprehensive resolution of the research aim through the application of hierarchical factor analysis.

**Table 8: Oblimin Factors (Inter-correlation Matrix) of the Trademark Characteristics**

	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	F-10	F-11	F-12	F-13	F-14	F-15
F-1	1,00	,03	-,03	-,06	,03	,04	,00	-,10	,03	-,06	,03	-,09	-,12	,05	,00
F-2	,03	1,00	,13	,00	,05	,03	-,09	-,07	,06	-,05	,09	-,06	,02	,05	,02
F-3	-,03	,13	1,00	,04	-,01	,02	-,09	-,06	,03	,02	,02	-,01	-,03	,11	,06
F-4	-,06	,00	,04	1,00	,04	,02	,04	-,01	-,02	,02	,03	,06	-,01	-,01	,02
F-5	,03	,05	-,01	,04	1,00	-,03	-,04	-,05	,06	-,04	,03	-,05	-,03	,03	-,01
F-6	,04	,03	,02	,02	-,03	1,00	,02	-,04	,02	,03	,05	-,01	,01	-,03	-,01
F-7	,00	-,09	-,09	,04	-,04	,02	1,00	,07	-,04	,02	-,01	,08	,05	-,06	,00
F-8	-,10	-,07	-,06	-,01	-,05	-,04	,07	1,00	-,01	,03	-,06	,09	,02	-,05	-,04
F-9	,03	,06	,03	-,02	,06	,02	-,04	-,01	1,00	,00	-,02	-,08	,00	,02	-,03
F-10	-,06	-,05	,02	,02	-,04	,03	,02	,03	,00	1,00	,01	,07	,00	-,01	,04
F-11	,03	,09	,02	,03	,03	,05	-,01	-,06	-,02	,01	1,00	-,01	,00	,03	,07
F-12	-,09	-,06	-,01	,06	-,05	-,01	,08	,09	-,08	,07	-,01	1,00	,00	-,01	,06
F-13	-,12	,02	-,03	-,01	-,03	,01	,05	,02	,00	,00	,00	,00	1,00	-,04	-,05
F-14	,05	,05	,11	-,01	,03	-,03	-,06	-,05	,02	-,01	,03	-,01	-,04	1,00	,04
F-15	,00	,02	,06	,02	-,01	-,01	,00	-,04	-,03	,04	,07	,06	-,05	,04	1,00
F-16	-,10	-,11	-,07	,02	-,06	,01	,05	,08	-,03	,06	-,07	-,01	,05	-,08	-,08
F-17	-,08	,08	,05	,03	,00	,02	,00	,00	,01	,06	,04	,05	,00	,01	,03
F-18	,01	-,02	,06	,03	-,09	,04	,00	,06	-,02	,05	-,04	,04	,01	-,01	-,01
F-19	,02	-,08	,00	,02	-,11	,02	,02	,01	-,06	,07	-,05	,03	,02	,03	,00
F-20	,02	-,03	-,02	,05	-,03	,01	,05	,00	-,06	,02	-,05	,02	,00	,01	,04
F-21	-,05	,01	,02	,02	-,06	,00	,01	,00	-,01	,02	,03	,00	,06	,01	,00
F-22	,12	,03	,03	,03	,04	,04	-,05	,00	-,03	-,04	-,04	-,02	-,01	,01	-,03
F-23	,05	-,04	,01	-,04	,01	,04	,03	,03	,00	,00	-,07	,01	-,04	,03	-,04
F-24	,05	,03	,03	,07	-,01	,03	,00	,05	-,03	-,05	-,05	,03	-,07	,01	,02
F-25	,01	,03	-,07	-,06	,04	-,04	-,04	-,11	,05	-,04	,03	-,02	,01	,04	,03
F-26	,02	-,01	-,08	,04	,03	,00	,08	-,01	,04	,02	,01	,01	,00	,01	-,05
F-27	-,13	,07	,02	-,01	-,08	,01	,02	,01	-,01	-,03	-,06	,01	,07	,01	-,04
F-28	-,04	-,14	,00	,09	,03	-,03	,08	,01	-,02	-,01	-,05	,06	,02	-,09	-,06

Table 8 (Continued)

	F-16	F-17	F-18	F-19	F-20	F-21	F-22	F-23	F-24	F-25	F-26	F-27	F-28
F-1	-,10	-,08	,01	,02	,02	-,05	,12	,05	,05	,01	,02	-,13	-,04
F-2	-,11	,08	-,02	-,08	-,03	,01	,03	-,04	,03	,03	-,01	,07	-,14
F-3	-,07	,05	,06	,00	-,02	,02	,03	,01	,03	-,07	-,08	,02	,00
F-4	,02	,03	,03	,02	,05	,02	,03	-,04	,07	-,06	,04	-,01	,09
F-5	-,06	,00	-,09	-,11	-,03	-,06	,04	,01	-,01	,04	,03	-,08	,03
F-6	,01	,02	,04	,02	,01	,00	,04	,04	,03	-,04	,00	,01	-,03
F-7	,05	,00	,00	,02	,05	,01	-,05	,03	,00	-,04	,08	,02	,08
F-8	,08	,00	,06	,01	,00	,00	,00	,03	,05	-,11	-,01	,01	,01
F-9	-,03	,01	-,02	-,06	-,06	-,01	-,03	,00	-,03	,05	,04	-,01	-,02
F-10	,06	,06	,05	,07	,02	,02	-,04	,00	-,05	-,04	,02	-,03	-,01
F-11	-,07	,04	-,04	-,05	-,05	,03	-,04	-,07	-,05	,03	,01	-,06	-,05
F-12	-,01	,05	,04	,03	,02	,00	-,02	,01	,03	-,02	,01	,01	,06
F-13	,05	,00	,01	,02	,00	,06	-,01	-,04	-,07	,01	,00	,07	,02
F-14	-,08	,01	-,01	,03	,01	,01	,01	,03	,01	,04	,01	,01	-,09
F-15	-,08	,03	-,01	,00	,04	,00	-,03	-,04	,02	,03	-,05	-,04	-,06
F-16	1,00	,00	,03	,05	,04	,04	-,03	-,02	-,03	-,01	,00	,00	,12
F-17	,00	1,00	,01	-,04	,04	,03	-,02	-,05	,01	,01	-,02	-,01	-,05
F-18	,03	,01	1,00	,09	,03	,04	-,01	-,02	,02	-,05	-,04	-,01	,02
F-19	,05	-,04	,09	1,00	,02	,03	,02	,04	,02	-,11	,00	-,03	,03
F-20	,04	,04	,03	,02	1,00	-,03	,01	,01	,03	-,04	-,06	,01	,00
F-21	,04	,03	,04	,03	-,03	1,00	-,09	-,08	-,04	,05	,02	,04	,02
F-22	-,03	-,02	-,01	,02	,01	-,09	1,00	,08	,03	-,01	,03	,00	,04
F-23	-,02	-,05	-,02	,04	,01	-,08	,08	1,00	,00	-,03	,03	,02	,05
F-24	-,03	,01	,02	,02	,03	-,04	,03	,00	1,00	-,06	,00	-,02	,00
F-25	-,01	,01	-,05	-,11	-,04	,05	-,01	-,03	-,06	1,00	,07	-,01	-,09
F-26	,00	-,02	-,04	,00	-,06	,02	,03	,03	,00	,07	1,00	-,03	,02
F-27	,00	-,01	-,01	-,03	,01	,04	,00	,02	-,02	-,01	-,03	1,00	,00
F-28	,12	-,05	,02	,03	,00	,02	,04	,05	,00	-,09	,02	,00	1,00



## 6.3. Trademark Characteristics Secondary Factors

### 6.3.1. Principal Components' Eigenvalues (Level 2)

The data from Table 9 show that there are 11 isolated statistically significant principal components, according to the Goodman Kaiser criterion. The Eigenvalue of the last statistically significant principal component is 1,02. The percentage of the valid variance of the first Eigenvalue is 6,19. The subsequent percentages gradually decline and the percentage of the last statistically significant principal component is 3,64. These percentages are relatively low, but their cumulative percentage of the last Eigenvalue is quite high (48,24). This demonstrates that the values of the statistically significant principal components have significant valid saturations. This means that the sufficiently high percentage of the valid variance is exhausted, for comprehensive interpretation of the isolated principal components.

**Table 9 : Principal Components' Eigenvalues (Level 2)**

Initial Eigenvalues			
Component	Total	% of Variance	Cumulative %
1	1,73	6,19	6,19
2	1,43	5,12	11,31
3	1,40	5,00	16,31
4	1,24	4,41	20,73
5	1,20	4,27	25,00
6	1,15	4,09	29,09
7	1,11	3,95	33,04
8	1,10	3,93	36,97
9	1,09	3,88	40,85

10	1,05	3,75	44,60
11	1,02	3,64	48,24
12	,98	3,51	51,75
13	,97	3,45	55,21
14	,95	3,39	58,60
15	,94	3,34	61,94
16	,90	3,22	65,16
17	,90	3,21	68,37
18	,89	3,18	71,55
19	,87	3,10	74,65
20	,85	3,05	77,69
21	,85	3,03	80,72
22	,83	2,95	83,68
23	,81	2,90	86,57
24	,80	2,87	89,44
25	,79	2,84	92,28
26	,76	2,71	94,99
27	,71	2,54	97,53
28	,69	2,47	100,00

The statistically significant values of the saturations of the principal components are presented on Table 10. However, these saturations are not sufficiently stable for definition of the isolated factors, compared to the saturations in the matrixes of the varimax and oblimin factors (pattern matrix and structure matrix).

**Table 10: Hotteling Principal Components (Level 2)**

	H1	H2	H3	H4	H5	H6	H7	H8	H9	H10	H11	h2
F-1	-,32	-,49	,10	,11	-,29	,15	,10	-,16	-,03	-,11	,07	,52
F-2	-,45	,24	,15	-,20	,25	,08	,22	-,05	-,12	-,08	,03	,47
F-3	-,22	,17	,46	-,22	,20	,20	-,21	,18	,16	,08	-,07	,53
F-4	,14	,05	,21	,33	,46	,26	-,07	-,08	,19	-,10	,17	,54
F-5	-,29	-,18	-,21	,24	,39	,03	-,25	,06	-,01	,15	,02	,45

F-6	-,01	-,03	,19	-,03	-,01	,42	,43	-,17	-,28	,22	-,04	,55
F-7	,36	-,07	-,12	,27	,05	,00	,43	,04	-,01	-,04	,01	,41
F-8	,38	-,02	,03	-,10	,11	-,27	-,05	,17	-,42	-,22	-,15	,52
F-9	-,23	,01	-,20	-,15	,10	,22	-,19	,26	-,37	,00	,18	,45
F-10	,21	,19	,17	,18	-,22	,15	-,08	,36	-,24	,37	,04	,54
F-11	-,27	,24	,02	,35	-,03	,23	,18	-,11	,00	,07	-,42	,53
F-12	,30	,12	,20	,29	,14	-,24	,16	,32	,06	-,06	-,14	,46
F-13	,18	,29	-,21	-,23	,08	,15	,24	-,09	,14	,10	-,01	,33
F-14	-,29	,02	,22	-,04	-,13	-,08	-,04	,40	,31	-,07	,24	,48
F-15	-,15	,17	,29	,37	-,12	-,23	,01	,02	,16	,08	-,13	,39
F-16	,45	,05	-,20	-,06	-,03	,15	-,20	-,17	-,04	,15	,24	,42
F-17	-,05	,35	,17	,15	,19	-,06	,04	,07	-,30	,22	,32	,46
F-18	,21	,06	,33	-,12	-,19	,26	-,11	-,01	-,14	-,21	,11	,36
F-19	,28	-,11	,32	-,08	-,36	,23	-,01	,12	,18	-,08	,02	,43
F-20	,15	-,05	,26	,10	-,03	-,26	,11	-,32	,09	,30	,51	,65
F-21	,10	,41	-,09	,00	-,14	,30	-,01	,00	,21	-,31	,12	,45
F-22	-,10	-,42	,14	-,13	,20	,10	,18	,01	,12	,16	,06	,35
F-23	,06	-,43	,06	-,19	,03	-,04	,20	,38	,03	,26	-,04	,48
F-24	,01	-,19	,33	,08	,24	-,10	,05	-,14	-,19	-,50	,16	,56
F-25	-,29	,15	-,40	,14	-,19	-,10	,08	,09	,13	-,02	,32	,47
F-26	,01	-,14	-,30	,25	,06	,26	,29	,41	,01	-,25	,22	,60
F-27	,09	,23	-,02	-,48	,22	-,18	,35	,06	,23	-,01	,02	,55
F-28	,38	-,20	-,10	,07	,32	,25	-,23	,00	,31	,10	-,12	,54

On the other hand, the communalities (excluding few of them that have values bellow 0.40), have expressed values in the range of 0,40-0, 60. Therefore, it is justified to calculate the varimax and the oblimin matrixes. These matrixes are shown on Table 11 and Table 12.

Table 11 reports the 11 isolated statistically significant varimax secondary factors (VS1-VS11). Since the varimax matrix contains orthogonal projections of the isolated factors, that don't provide maximum parsimonical defining of the factors, the varimax matrix will not be interpreted. This is often the case in social sciences.

Table 11: Varimax Secondary Factors Matrix (Level 2)

	VS1	VS2	VS3	VS4	VS5	VS6	VS7	VS8	VS9	VS10	VS11
F-1	,10	,15	-,50	,22	,28	-,14	,11	-,04	-,27	-,07	,03
F-2	,64	-,10	,14	-,01	,08	,05	-,10	-,08	-,04	-,03	-,04
F-3	,29	,17	,09	,13	,09	,31	-,42	,02	,17	,22	-,16
F-4	,04	,00	-,03	-,08	,01	,71	,10	,07	,00	-,02	,12
F-5	-,02	-,52	-,23	,10	,10	,28	-,03	-,13	,04	,07	-,09
F-6	,29	,22	,02	,21	,17	,02	,11	-,06	,16	-,55	,04
F-7	-,13	,03	,12	,07	-,13	,05	,51	,19	,01	-,23	,10
F-8	-,07	,04	,02	-,01	-,70	-,10	,03	-,07	,05	-,07	-,06
F-9	,19	-,14	-,12	-,01	-,03	-,02	,02	-,53	,24	,09	-,16
F-10	-,11	,18	-,07	,03	-,03	-,04	,03	,05	,70	-,03	-,01
F-11	,22	-,11	-,08	-,17	,27	,04	,03	,36	,10	-,33	-,32
F-12	-,04	,02	,09	,04	-,36	,15	,21	,45	,19	,11	-,04
F-13	-,03	,03	,52	-,08	,13	,00	,07	-,08	,00	-,16	-,01
F-14	,19	,13	-,04	,12	,18	,00	,02	,09	,07	,60	,00
F-15	,09	-,05	-,16	-,10	,07	-,01	-,09	,55	,13	,12	,06
F-16	-,42	,10	,14	-,16	-,01	,11	,01	-,29	,13	-,15	,23
F-17	,30	-,14	,04	-,14	-,10	,11	,00	-,03	,45	-,01	,32
F-18	,05	,53	-,09	-,12	-,12	,09	-,07	-,14	,07	-,03	,03
F-19	-,18	,60	-,05	,11	,06	,03	,01	,08	,05	,08	-,03
F-20	-,05	,03	,00	,08	,09	,04	-,04	,12	,03	-,01	,78
F-21	,02	,29	,22	-,46	,18	,12	,16	-,06	-,02	,11	-,12
F-22	,08	-,01	-,03	,52	,12	,15	,01	-,06	-,14	-,03	,08
F-23	-,08	,02	,05	,65	-,06	-,11	,10	-,03	,10	,10	-,06
F-24	,30	,15	-,26	-,03	-,40	,26	,09	-,02	-,34	,02	,19
F-25	,04	-,25	,01	-,23	,32	-,24	,30	-,08	,01	,29	,10
F-26	,05	-,01	-,05	,06	,05	,13	,71	-,16	,05	,14	-,18
F-27	,17	,02	,67	,14	-,09	-,06	-,01	,02	-,16	,11	,06
F-28	-,48	-,03	,11	,15	,02	,50	-,03	-,04	-,05	-,07	-,13

Table 12 is a pattern matrix that contains saturations among 11 statistically significant secondary factors (PS1-PS11) and the 28 primary factors (F1-F28). Table 13 represents a structure matrix with saturations among 11 statistically significant secondary factors (SS1-SS11) and the 28 primary factors (F1-F28). Both tables provide complete definition, i.e. parsymonical solution of the isolated trademark characteristics secondary factors.

The **1st secondary factor** in the pattern matrix (PS1) has three statistically significant saturations with 3 primary factors: with the 2nd primary factor (insufficiently defined) (-0,37); with the 6th primary factor (factor of telecommunications trademarks) (-0,58); and with the 11th primary factor (copyright and personality rights factor) (-0,63). These three primary factors don't have statistically significant saturations with the ten other secondary factors. In the structure matrix, the same saturations with the primary factors are also present with similar values: SS1 with F2 (0,42); SS1 with F6 (-0,54) and SS1 with F11 (-0,61). The 2nd primary factor (F2) has also a saturation of -0,31 with the 10th secondary factor (SS10). However, since this saturation (-0,31) is lower than the saturation of F2 with SS1 (0,42), it will not be considered during the definition of the 1st secondary factor (SS1). There is a very similar situation with the saturation (0,31) of the 1st secondary factor (SS1) with the sixteenth primary factor (F16) (trademark conceptual similarity factor). Consequently, the saturation of SS1 with F16 will also not be taken into account. Therefore, the 1st secondary factor can be defined as **copyright, personality rights and telecommunications factor (S1)**.

The 1st secondary factor as well as the other 10 secondary factors are defined on the basis of the structure of the primary factors in the pattern and structure matrixes, varimax matrix, Hotteling statistically significant principal components, the communalities, as well as the inter-correlation matrix of the primary factors (Tables 3,4,5,6,7 and 8).

Accordingly, the definitions of the 1st factors and the other secondary factors definition have universal feature. Although this feature is less precise compared to the primary factors features, this feature is still important and scientifically justified, due to its practical and theoretical significance. Consequently the definition of the 1st secondary factor is derived from the defining of the 28 primary factors. Moreover, the 1st secondary factor in great extent contributes towards successful generalization and synthetization during the determination of the appropriate trademark characteristics. This is not a sole response to the requirements of the practice, but an output of the inter-correlations of the primary factors that indicate due to their similarity, primary factors might be integrated into upper level trademark characteristics' factors (secondary, tertiary and further on until a unique general factor) (Table 8). This means that the hypothetical existence and the interpretation of the secondary (level 2) factors are undoubtedly justified.

The **2nd secondary factor** is saturated by three primary factors. The saturations in the pattern matrix are with the 21st primary factor is 0, 49; with the 22nd primary factor is -0,51; and with the 23rd factor -0,66. The situation is similar with the saturation in the structure matrix: 0,49 with 21st primary factor ; with -0,52 the 22nd primary factor is -0,51; and -0,64 with the 23rd primary factor. The three primary factors have clear existence in a separate 2nd secondary factor. Therefore the 2nd secondary definition factor is complex, as a consequence

of the involvement of the three primary factors. In other words, because of the integrity of the three primary factors in both matrixes, the 2nd secondary factor definition tends to hypothetically formulated as **factor of three dimensionality, identical or similar goods and services and public order and morality (S2).**

In the pattern matrix there are three statistically significant saturations of the **3rd secondary factor:** with the 5th primary factor (-0,50); with the 18th primary factor (0,55) and with the 19th primary factor (0,60). The 18th and 19th primary factors don't have statistically significant saturations with the other secondary factors. The 5th primary factor has also a statistically significant saturation with the 5th secondary factor. However this saturation is pretty low (0,31) , so its participation in the defining of the 3rd secondary factor is uncertain. In the structure matrix, the saturations of the 3rd secondary factor saturations have completely identical values: (-0,50) the 5th primary factor; (0,55) with the 18th primary factor and (0,60)with the 19th primary factor. In the structure matrix all three primary factors don't have statistically significant saturations with the other secondary factors. The defining of the 3rd secondary factor is clearly dominated by the 18th and 19th primary factor. Although the 5th primary factor has expressed saturation, the logical explanation of the 5th primary factor is insufficient for the 3rd secondary factor definition. Consequently, the 3rd secondary factor could be conditionally nominated **factor of deceptiveness (nature, quality and origin) and descriptiveness (value, purpose and origin) (S3).**

**The 4th secondary factor** has quite similar saturations with the 1st primary factor (0,40), with the 13th primary factor (-0,49) and with the 27th primary factor (-0,72) (pattern matrix). Similar primary factors saturations' with the 4th secondary factor are presented in the structure matrix as well: 0,41 with the 1st primary factor, -0,51 with the 13th primary factor and -0,69 with the 27th primary factor. The 1st primary factor has close saturations with the 4th secondary factor in both matrixes, but it also has slightly more expressed saturations with the 6th secondary factor (0,43). Due to this double participation of the 1st primary factor, its definition in the 4th secondary factor is not sufficiently comprehensive. **The existence of this factor (S4) is present from methodological and statistical point of view, but from a logical and descriptive aspect can't be adequately determined.** This consideration is probably to some degree influenced by the scientific knowledge for the methodological and statistical quantitative approach of the determination of the trademark characteristics.

In the pattern matrix the **5th secondary factor** is in statistically significant correlation with two primary factors: with the 4th primary factor (0, 65) and with the 28th primary factor (0, 63). In this matrix, there is a participation of the 5th primary factor with low but yet statistically significant correlation (0, 31). In the structure matrix there is a corresponding association with the same primary factors, with the same values (0, 65; 063; and 0, 31). It is visible that the correlations of the 4th and the 28th primary factors are saturated only with the 5th secondary factors, while they lack participation in the other secondary factors. On the grounds of the high statistically significant correlations of the 4th and the 28th primary factors with the 5th secondary factor, a definition with higher stability with can be established, concerning the existence of the 5th secondary factor. Consequently, its nomination would be **factor of trademark guarantee function and estimation of product quality (S5).**

**The 6th secondary factor**, both in the pattern and in the structure matrix is defined with four primary factors. Namely, in the pattern matrix, the saturations are: 0,43 with the 1st primary factor; -0,53 with the primary factor; -0,60 with the 12th primary factor; and -0,31 with the 10th primary factor. In the structure matrix the saturations of the 6th factors with the primary factors are with similar values: 0,43 (with the 1st primary factor); -0,52 (with the 8th primary factor); -0,60 (with the 12th primary factor) and -0,34 (with the 10th primary factor). However, the correlation of the 6th secondary factor with the 10th primary factor, as mentioned, is statistically significant, but in the lowest level. Furthermore, the 10th primary factor has high saturations with the 10th secondary factor. Hence, the participation of the 10th primary factor in the definition of the 6th secondary factor is irrelevant. Therefore, the defining of the 6th secondary factor is foremost founded on the 1st primary factor, the 8th primary factor and the 12h primary factor. Accordingly the 6th secondary factor can be hypothetically defined as **factor of visual and figurative similarity, descriptiveness (ingredient or quality) and trade dress similarity (S6)**.

The **7th secondary** factor is determined by four primary factors. In the pattern matrix, the coefficients of the saturations are: with the 3rd primary factor (-0,46); with the 7th primary factor (0,50); with the 25th primary factor (0,33); as well as with the 26th primary factor (0,70). In the structure matrix, the situation is similar: the 7th secondary factor is determined by the 3rd primary factor (-0,49); with the 7th primary factor (0,51); with the 25th primary factor (0,32) and with the 26th primary factor (0,67).

Besides the participation in the 7th secondary factor, insignificant participation in both matrixes is noted of the 3rd primary factor in the 8th secondary factor, as well as of the 25th primary factor in the 8th secondary factor, with low correlations coefficients, so it is not feasible to include these primary factors (F3, F25) in the defining of the 8th secondary factor.

Thus the defining of the 7th secondary factor, based on the participation of F3, F7, F25 and 26, the 7th secondary factor is designated as **factor of distinctiveness of denominations and figurative signs and descriptiveness (time of production and technical characteristics) with participation of Facebook user regulations awareness (S7)**.

As far as the **8th secondary factor** is concerned, it is dominantly determined by the 14th and the 16th primary factor in the pattern matrix. The values of the saturations are **0,69** (of the 14th primary factor) and **-0,31** (of the 16th primary factor). The saturations in the structure matrix are **0,66** (of the 14th primary factor) and **-0,37** (of the 16th primary factor). In the 8th secondary factor there are also additional lower saturations presences of the 3rd, 8th and 25th primary factors. The 14th and the 16th primary factors independently contribute in the defining of the 8th secondary factor only, i.e. they are not in correlation with any other secondary factors. This provides a designation of the 8th secondary factor as **factor of bad faith trademark application and conceptual similarity (S8)**.

**The 9th secondary factor** is defined by only two primary factors in the pattern and structure matrixes. Both primary factors lack participation in other secondary factors, thus they enable clear and clean reasonable definition of the 9th secondary factor. In the pattern matrix

the correlation coefficients are: -0,65 with the 9th primary factor, 0,37 with the 15th primary factors. In the structure matrix the coefficients are completely identical. Hence the 9th secondary factor is determined by the **factor of phonetically (aural) similarity and the 9th primary factor** (which although exists it is not clearly defined) **(S9)**.

In both matrixes there is a dominant determination of the **10th secondary factor** by statistically significant correlations of two primary factors. In the pattern matrix, there is correlation of the 10th secondary and the 10th primary factor (0,49), as well as with the 24th primary factor (-0,71). In the structure matrix there are very similar values of the correlations of the 10th secondary factor, i.e. it is determined by the same primary factors (0,48 with the 10th primary factor and -0,71 with the 24th primary factor). Besides that, the 10th secondary factor has a statistically significant low correlation (-0,31) with the 2nd primary factor, that has no sufficient importance for defining the 10th secondary factor. Accordingly the 10th secondary factor can be nominated as **color trademark factor**, as an additional generalization of the 10<sup>th</sup> primary factor **(S10)**.

The **11th secondary factor** has a clear methodological existentiality (high coefficients of correlation) with two primary factors that don't have saturations with any other primary factor in both matrixes. Also, the interpretation of this factor is relatively good, due to the volume of the saturation. In the pattern matrix, the correlation of the 11th secondary factor with the 17th primary factor is 0,50, while with the 20th primary factor is 0,74. In the structure matrix, the 11th factor is defined by the same primary factors with similar values (0,53 with the 17th primary factor and -0,71 with the 20th factor). Based on the participation of the both primary factors, the 11th secondary factor can be nominated as **factor of genericness (S11) with participation of F17**.

**Table 12: Oblimin Pattern Matrix (Level 2)**

	PS1	PS2	PS3	PS4	PS5	PS6	PS7	PS8	PS9	PS10	PS11
F-1	-,13	-,20	,14	,40	-,15	,43	,14	,05	,08	-,19	-,05
F-2	-,37	,02	-,13	-,27	-,10	,06	-,14	,16	-,22	-,28	,04
F-3	-,17	-,09	,15	-,11	,25	-,06	-,46	,37	-,14	,01	-,05
F-4	-,10	,12	-,01	,03	,65	-,06	,08	,07	,02	-,23	,17
F-5	,01	-,09	-,50	,24	,31	,06	-,02	,04	-,20	,01	-,03
F-6	-,58	-,23	,22	-,07	-,03	,14	,09	-,27	-,11	,02	,15
F-7	-,10	-,08	,02	-,08	,06	-,20	,50	-,19	,18	-,02	,08
F-8	,21	-,02	,08	,00	-,16	-,53	,00	-,30	-,16	-,20	-,10
F-9	,02	-,01	-,08	,09	-,05	,04	,02	,03	-,65	,04	-,05



F-10	-,13	-,05	,24	,20	-,02	-,31	,02	,05	-,21	,49	,20
F-11	-,63	,19	-,13	,11	,03	-,01	,02	-,05	,17	,13	-,19
F-12	-,02	-,03	,00	-,02	,10	-,60	,17	,12	,21	-,02	,01
F-13	-,09	,08	,01	-,49	,05	,08	,07	-,12	,01	,16	,00
F-14	,13	-,08	,10	,00	-,04	,01	,01	,69	-,02	,00	,03
F-15	-,18	,12	-,08	,20	-,04	-,20	-,11	,25	,37	,07	,12
F-16	,28	,13	,15	-,05	,20	,11	,04	-,31	-,11	,22	,21
F-17	-,15	,11	-,11	-,02	,00	-,23	-,03	,06	-,27	,02	,50
F-18	,00	,12	,55	,08	,02	-,01	-,08	-,02	-,13	-,12	,03
F-19	,05	-,09	,60	,07	,05	,03	,02	,14	,14	,10	-,06
F-20	,17	-,11	,02	,00	,01	,15	-,02	,00	,27	-,05	,74
F-21	-,03	,49	,28	-,20	,12	,10	,17	,17	-,03	,02	-,10
F-22	-,06	-,51	-,03	-,05	,15	,18	,01	,06	,01	-,10	,05
F-23	,07	-,66	,03	-,06	-,06	-,11	,11	,11	-,06	,15	-,06
F-24	,05	,03	,12	,14	,07	-,12	,06	-,03	-,02	-,71	,09
F-25	,11	,23	-,25	-,02	-,20	,23	,33	,30	-,06	,13	,11
F-26	-,04	-,05	,00	,03	,12	-,05	,70	,20	-,26	-,06	-,14
F-27	,07	-,14	-,04	-,72	-,08	-,09	-,04	,12	,07	-,08	,01
F-28	,17	-,13	-,02	-,03	,63	,00	-,01	-,15	,09	,14	-,17

**Table 13. Oblimin Structure Matrix (Level 2)**

	SS1	SS2	SS3	SS4	SS5	SS6	SS7	SS8	SS9	SS10	SS11
F-1	-,13	-,25	,09	,41	-,16	,43	,12	,08	,09	-,22	-,08
F-2	-,42	,04	-,16	-,25	-,12	,08	-,19	,22	-,25	-,31	,06
F-3	-,22	-,08	,14	-,09	,24	-,07	-,49	,38	-,16	-,04	-,03
F-4	-,13	,10	,01	,02	,65	-,08	,07	,06	,01	-,21	,19
F-5	-,01	-,09	-,50	,25	,27	,09	-,03	,07	-,20	-,01	-,05
F-6	-,54	-,22	,23	-,08	-,01	,12	,08	-,24	-,11	,00	,18
F-7	-,06	-,08	,06	-,09	,08	-,20	,51	-,22	,20	,02	,10
F-8	,24	-,04	,12	-,01	-,14	-,52	,00	-,33	-,14	-,18	-,07
F-9	,01	,00	-,10	,07	-,06	,07	-,01	,05	-,65	,03	-,05
F-10	-,12	-,01	,26	,19	,01	-,34	,02	,03	-,19	,48	,24

F-11	-,61	,21	-,16	,11	,02	-,01	,01	,02	,16	,12	-,15
F-12	-,02	-,02	,04	,00	,11	-,60	,16	,10	,24	,00	,05
F-13	-,06	,11	,04	-,51	,07	,07	,10	-,15	,00	,18	,01
F-14	,06	-,07	,06	,04	-,06	,02	-,03	,66	-,02	-,02	,01
F-15	-,22	,13	-,09	,23	-,06	-,22	-,12	,29	,37	,05	,13
F-16	,31	,13	,19	-,10	,23	,08	,09	-,37	-,11	,26	,21
F-17	-,20	,15	-,09	-,03	,01	-,25	-,06	,08	-,28	,02	,53
F-18	,00	,10	,55	,05	,05	-,04	-,09	-,04	-,13	-,11	,06
F-19	,07	-,10	,60	,06	,08	,00	,03	,09	,15	,10	-,05
F-20	,13	-,10	,05	,01	,02	,10	-,01	-,02	,25	-,05	,71
F-21	-,03	,49	,26	-,24	,13	,09	,17	,14	-,04	,07	-,08
F-22	-,06	-,52	-,02	-,02	,15	,19	,00	,06	,01	-,15	,02
F-23	,09	-,64	,05	-,02	-,05	-,08	,10	,08	-,04	,11	-,08
F-24	,02	-,03	,12	,14	,07	-,12	,01	-,02	-,02	-,70	,10
F-25	,08	,25	-,29	-,02	-,22	,25	,32	,29	-,06	,15	,08
F-26	-,03	-,04	-,01	,02	,12	-,01	,67	,17	-,22	-,02	-,14
F-27	,06	-,10	-,02	-,69	-,08	-,08	-,04	,08	,05	-,08	,00
F-28	,21	-,14	,04	-,04	,63	-,01	,03	-,20	,09	,16	-,17

---

Table 14 represents the matrix of inter-correlation among the 11 secondary oblimin factors (level 2) (S1-S11). Among all correlations, there is only one statistically significant correlation (which is on the threshold, i.e. its coefficient is  $-0,11$ ). This correlation is between the 1st secondary factor (copyright, personality rights and telecommunications trademarks factor) (S1) and the 8th secondary factor (factor of bad faith trademark application and conceptual similarity) (S8).

According to the data from this matrix, all other correlations, apart from the one above (S1 with S8:  $-0,11$ ), point out that the secondary factors are defined as autonomous and independent, i.e. they exist with nominal or numerical designations (with particular names or numbers), as mentioned in the level 2 pattern and structure matrixes.

Consequently, in the subsequent procedure, a **factorization of the secondary factors in higher level is applied for the purpose of obtaining tertiary factors**, especially due to the following reasons:

- 1) existence of statistically significant correlation (S1 with S8: -0,11), which might produce new integrated tertiary factor;
- 2) presence of large number of quite low number of positive and negative insignificant correlations;
- 3) definitions of the secondary factors (S1-S11) with high number of statistically significant correlations of the primary factors (F1-F28);
- 4) the aim of the research; and
- 4) theoretical and practical necessity for generalization of the trademark characteristics.

**Table 14: Matrix of Inter-correlation among the Secondary Factors (level 2)**

	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11
S1	1,00	-,02	,03	-,01	,00	,00	,04	-,11	,02	,05	-,06
S2	-,02	1,00	-,03	-,05	-,01	-,03	,01	,02	-,02	,08	,03
S3	,03	-,03	1,00	-,03	,05	-,05	,00	-,07	,01	,02	,03
S4	-,01	-,05	-,03	1,00	-,02	-,01	-,02	,05	,03	-,02	,00
S5	,00	-,01	,05	-,02	1,00	-,02	,01	-,04	,00	,02	,01
S6	,00	-,03	-,05	-,01	-,02	1,00	,02	,02	-,03	-,02	-,07
S7	,04	,01	,00	-,02	,01	,02	1,00	-,06	,05	,07	-,01
S8	-,11	,02	-,07	,05	-,04	,02	-,06	1,00	-,01	-,03	-,01
S9	,02	-,02	,01	,03	,00	-,03	,05	-,01	1,00	,01	-,01
S10	,05	,08	,02	-,02	,02	-,02	,07	-,03	,01	1,00	,00
S11	-,06	,03	,03	,00	,01	-,07	-,01	-,01	-,01	,00	1,00

## 6.4. Trademark Characteristics Tertiary Factors

The initial level 3 factorization demonstrated that four Eigenvalues were isolated (Table 15), according to the Kaiser-Goodman criterion. The 4th Eigenvalue (1,05) has suitable values of the valid variance (9,59 %) and cumulative valid variance (41,21%). These values provide calculation of the extracted Hotteling principal components, varimax and oblimin factors, as well as their justified analysis and interpretation.

**Table 15: Principal Components' Eigenvalues (Level 3)**

Component	Initial Eigenvalues		
	Total	% of Variance	Cumulative %
1	1,24	11,30	11,30
2	1,13	10,30	21,59
3	1,10	10,03	31,62
4	1,05	9,59	41,21
5	,99	8,98	50,20
6	,97	8,81	59,00
7	,96	8,69	67,69
8	,92	8,37	76,07
9	,89	8,11	84,18
10	,88	7,96	92,14
11	,87	7,86	100,00

Table 16 represents the saturations of the principal components with the trademark characteristics secondary factors (S1-S11) and the communalities. The coefficients of the correlations of the principal components with the secondary factors (as previously mentioned in the comments of the Hotteling components) are approximate, insufficiently stable and only preliminary define the latent structure of the tertiary factors. The communalities have notable values, except for the 5th secondary factor (0,19). The remaining communalities have sufficiently high values (from 0,35 to 0, 56), which imposed the real requirement for transformation of the principal components into varimax factors (Table 17).

**Table 16: Hotteling Principal Components (Level 3)**

	H1	H2	H3	H4	h2
S1	,47	-,39	,02	-,04	,37
S2	,03	,45	,59	,07	,56
S3	,41	,19	-,42	-,16	,41
S4	-,26	-,16	-,31	,51	,45
S5	,27	,16	-,24	-,18	,19
S6	-,18	-,48	,30	-,29	,44
S7	,40	-,19	,26	,29	,35
S8	-,59	,11	,11	,18	,41
S9	,16	-,14	-,15	,67	,52
S10	,39	,15	,46	,24	,44
S11	,03	,60	-,16	,08	,40

The varimax matrix (Table 17) defines the tertiary factors in a more stable way. Still, those factors don't enable complete parsimony of the final structure of the extracted tertiary factors (latent dimensions).

**Table 17: Varimax Tertiary Factors Matrix (Level 3)**

	VT1	VT2	VT3	VT4
S1	,61	-,02	,01	,02
S2	-,26	-,03	,67	-,20
S3	,21	,58	-,14	-,06
S4	-,16	-,09	-,22	,61
S5	,13	,39	-,08	-,13
S6	,19	-,55	-,14	-,28
S7	,40	-,09	,37	,22
S8	-,55	-,31	-,02	,13
S9	,14	,03	,12	,70

S10	,19	,01	,63	,05
S11	-,36	,49	,17	,02

**Table 18: Oblimin Tertiary Pattern Factors Matrix (Level 3)**

	PT1	PT2	PT3	PT4
S1	,42	-,38	,16	,09
S2	-,30	,27	,58	-,30
S3	,57	,26	-,13	-,01
S4	-,22	,07	-,21	,61
S5	,38	,17	-,08	-,10
S6	-,16	-,61	-,08	-,25
S7	,13	-,18	,47	,23
S8	-,61	,12	-,13	,06
S9	,00	,09	,18	,70
S10	,02	,07	,66	,01
S11	,03	,63	,05	-,03

For the purpose of obtaining a parsimony of higher level, calculate oblimin factors are calculated in a pattern matrix display (parallel projections of the tertiary factors) and in a structure matrix display (orthogonal projections of the tertiary factors) (Table 18).

In the pattern matrix the **1st tertiary trademark** characteristics factor is defined by five statistically significant saturations: with the 1st secondary factor (0,42); with the 2nd secondary factor (-0,30); with the 3rd secondary factor (0,57); with the 4th secondary factor (0,38) a with the 8th secondary factor (-0,61). In the structure matrix, the 1st tertiary factor has statistically significant saturations with four secondary factors: with the 1st secondary factor (0,43); with the 3rd secondary factor (0,57); with the 4th secondary factor (0,38) an with the 8th secondary factor (-0,61).

The 2nd secondary factor has two more saturations (with the 3rd tertiary factor (-0, 58) and with the 4th tertiary factor (-0, 30).

Due to this situation (in the oblimin matrix there is no statistically significant saturation of the 1st tertiary factor with the 2nd secondary factor and since the 2nd secondary factor has high saturations with the 3rd tertiary factor in both matrixes and low correlation with the 4th

tertiary factor), the participation of the 2nd secondary factor in the 1st tertiary factor is not acceptable.

Consequently, the 1st tertiary factor (T1) is defined by: copyright, personality rights and telecommunications factor (S1); factor of deceptiveness (nature, quality and origin) and descriptiveness (value, purpose and origin) (S3); factor of trademark guarantee function and estimation of product quality (S5); and the factor of bad faith trademark application and conceptual similarity (S8). From the aspect of its nomination **the 1st tertiary factor (T1) could be named factor of guarantee, value, deceptiveness and descriptiveness (value, purpose and origin) and bad faith.**

The **2nd tertiary trademark characteristics factor (T2)** is dominantly determined by the 6th secondary factor (S6) and the 11th secondary factor (S11). The participation of S6 is with values of -0,61 in the pattern matrix and -0,58 in the structure matrix. S11 saturations with T2 are identical (0,63) in the pattern as well as in the structure matrix. In both matrixes it the 2nd tertiary factor is additionally defined with the 1st secondary factor (in the pattern matrix: -0,38; in the structure matrix: -0,39). Due to the participation of the 6th secondary factor and the 11th secondary factor (S6 and S11), the 2nd tertiary factor could obtain the nomination **factor of visual and figurative similarity, descriptiveness (ingredients and quality), trade dress similarity and genericness .**

Three statistically significant secondary factors determine the **3rd tertiary trademark characteristics factor (T3)**, which is visible in both matrixes (similar saturations). In the pattern matrix the 3rd tertiary factor correlations are: with the 2nd secondary factor is (0,58), with the 7th secondary factor (0,47) and with the 10th secondary factor (0,66). In the structure matrix the 3rd tertiary factor correlations are: 0,54 (with the 2nd secondary factor is); 0,49 (with the 7th secondary factor); and 0,66 (with the 10th secondary factor). The 2nd secondary factor besides the participation in the 3rd tertiary factor, has participation in the 4th tertiary factor in both matrixes, but this participation is minor (-0,30 in the pattern matrix and -0,32 in the structure matrix).

Apparently, the 3rd tertiary factor (T3) is defined by: the factor of three dimensionality, identical or similar goods and services and public order and morality (S2); factor of distinctiveness of denominations and figurative signs and descriptiveness (time of production or technical characteristics) with participation Facebook user regulations awareness (S7), and with the color trademark factor (S10). **The nomination of T3 in this sense would be: factor three-dimensionality, prior trademarks, public order and morality, distinctiveness (denominations and figurative signs) and descriptiveness (time of production or technical characteristics).**

The **4th tertiary trademark characteristics factor (T4)** is above all determined by the participation of the two secondary factors. In the pattern matrix, T4 is defined by the 4th secondary factor (S4) (0, 61) and with the 9th secondary factor (S9) (0,70). These high saturations are also present in the structure matrix. The participation of S4 in T4 in the structure

matrix is 0,59, while the participation of S9 in T4 is 0,69. There is a low participation of S2 in T4, but this participation is minimal.

Having in mind the above circumstances, the 4th tertiary trademark characteristics factor (T4) is nominated as **factor of phonetically (aural) similarity with high but not sufficiently clear participation of S4.**

Table 19: Oblimin Tertiary Factors Structure Matrix (Level 3)

	ST1	ST2	ST3	ST4
S1	,43	-,39	,21	,14
S2	-,27	,25	,54	-,32
S3	,57	,27	-,11	-,01
S4	-,21	,04	-,22	,59
S5	,38	,19	-,07	-,10
S6	-,18	-,58	-,05	-,21
S7	,16	-,23	,49	,25
S8	-,61	,12	-,17	,03
S9	,03	,02	,19	,69
S10	,06	,02	,66	,02
S11	,04	,63	,01	-,08

The inter-correlations of the tertiary factors (Table 2) are not only statistically insignificant, but they are also characterized by values bellow 1. This demonstrates that the tertiary factors are autonomous and independent. Accordingly, the tertiary trademark characteristics factors exist, despite their imperfect nomination. This initial nomination of the four tertiary factors (T1-T4) might represent a basis for future factorizations.

Table 20: Matrix of Inter-correlation among the Tertiary Factors (level 3)

Component	1	2	3	4
1	1,00	,01	,06	,03
2	,01	1,00	-,07	-,08
3	,06	-,07	1,00	,02
4	,03	-,08	,02	1,00



## 6.5. Trademark Characteristics Quaternary Factors (Q1-Q2)

The transformation of the four tertiary factors produced two statistically significant eigenvalues with similar numerical values (Table 2). The first eigenvalue is 1, 13, while the second eigenvalue is 1, 02. The percentage of valid variance of these factors, considering that they are of level 4, is quite expressed. The first eigenvalue has percent of 28,31 and the percentage of the second is 25,38. Analogously, the percentage of cumulative valid variance is noticeable. Both eigenvalues have exhausted 53, 69% of the total variance.

Table 21: Principal Components Eigenvalues (Level 4)

Component	Initial Eigenvalues		
	Total	% of Variance	Cumulative %
1	1.132	28.305	28.305
2	1.015	25.384	53.689
3	.971	24.274	77.962
4	.882	22.038	100.000

Table 22 shows the Level 4 principal components, while Table 23 shows the trademark characteristics' varimax quaternary factors.

The saturations of the principal components with the quaternary factors (Table 22) do not reflect the exactness of their defining. Therefore, the principal components are not interpreted.

Table 22: Hotteling Principal Components (Level 4)

	Component		Communalities h <sup>2</sup>
	H1	H2	
T1	.366	.755	0.704
T2	-.614	.466	0.594
T3	.576	.335	0.444
T4	.538	-.341	0.405

Due to the same reasons elaborated during the interpretation of the matrixes in all tables for varimax factors in this study, Table 23 varimax quaternary factors (VQ1 and VQ2) are also not interpreted.

Table 23: Varimax Quaternary Factors Matrix

	VQ1	VQ2
T1	,168	,822
T2	,771	-,003
T3	-,253	,616
T4	-,634	,057

The transformation of the varimax factors in oblimin solution (pattern matrix and structure matrix) (Tables 24 and 25) show the parsimony of the extracted trademark characteristics quaternary factors. The tertiary factors' saturations with the quaternary factor in the pattern matrix are pretty high and they provide stable definition of the quaternary factors.

The 1st quaternary factor (Q1) is defined by the saturation of the 2nd tertiary factor (T2) which is -0,77. The saturation of the 1st quaternary factor with the 4th tertiary factor (T4) is 0,63. The corresponding saturations in the structure matrix are also quite similar and high:

Q1 with T2 is -0,77 and Q1 with T4 is 0,64. The hypothetical, non-definite name of **the 1st quaternary factor would be Factor of trademark similarity and genericness Q1).**

High saturations are also present at the 2nd quaternary factor. It's correlation with the 1st tertiary factor (T1) is 0,83, while with the 3rd tertiary factor (T3) is 0,61. In the structure matrix Q2 has high correlation with T1 (0,82) and with T3 (0,63). **Consequently, assumed name of the 2nd quaternary factor would be trademark distinctiveness and guarantee factor.**

The above data enable clear existence of the two independent quaternary factors. This is also visible at Table 26 (Inter-correlation of the factors). The association of these two factors is not only low, but statistically insignificant as well (0,09) , which means that Q1 and Q2 are not interdependent.

Table 24: Oblimin Quaternary Factors Pattern Matrix (Level 4)

	Component	
	PQ1	PQ2
T1	-.206	.833
T2	-.773	.035
T3	.226	.606
T4	.634	.026

Table 25: Oblimin Quaternary Factors Structure Matrix (Level 4)

	Component	
	SQ1	SQ2
T1	-.127	.813
T2	-.770	-.038
T3	.284	.627
T4	.636	.085

Table 26: Inter-correlation of the Trademark Characteristics Quaternary Factors

Component	Q1	Q2
Q1	1.000	.094
Q2	.094	1.000

### 3.6. General (Quinary) Trademark Quality Factor (TMQ)

Table 27 lists factorization of the quaternary trademark characteristics' factors (Level 4) that produces one principal component. Its loading is 1, 09, while its valid variance is 54, 72 %. Since there is one statistically significant principal component, its total (cumulative) value is identical: 54, 72 %. **This percentage is considerably high and proves the existence of a general trademark quality factor (TMQ).** The reality of this existence is confirmed by the expressed communalities of the two quaternary factors (Table 28 loadings): Q1 (0, 55) and Q2 (0, 55).

Furthermore, the confirmation of the existence of the two quaternary factors is visible from the identical saturations of the two factors in the unique principal component. Their value is high: 0, 74. Since there is only one principal component, in the subsequent factorization it is not transformed in varimax solution and in oblimin factor (which actually is not even possible). Consequently, in this case the principal component is classified, defined at the same time as varimax factor and oblimin factor (orthogonal projections, i.e.. pattern factor) parallel projections (structure) of the two quaternary factor. Additionally, the principal component is a parsimonical solution, equal to the parsimonical solution of the varimax and the oblimin factor.

**In any case the quinary clean and existent factor is general trademark characteristics factor, or more specifically general trademark quality factor.**

Table 27: Principal Components Eigenvalues (Level 5)

Component	Initial Eigenvalues		
	Total	% of Variance	Cumulative %
1	1.094	54.719	54.719
2	.906	45.281	100.000

Table 27-A: Hotteling Principal Components (Level 5)

	H1	Communalities (h2)
Q1	.740	.547
Q2	.740	.547

## 6.6. Factor Analysis of the Cognitive Abilities and Conative Characteristics

### 6.6.1. Correlations among the Cognitive Abilities and Conative Characteristics Variables

Table 27-B (Correlations of Cognitive and Conative Variables) shows that out of 36 calculated coefficients of correlation among the cognitive abilities and conative features, 18 are statistically significant at the level of 0,05. Only one from the 18 correlations have negative number: EPSILON-1 (the test for regulation of the excitatory and inhibitory process) has a coefficient of correlation of -0,31 with ALPHA-7 (test for assessment of the efficiency of the serial processor), which means that subjects (respondents) with higher cognitive abilities (estimated by ALPHA-7) have expressed lower results in EPSILON-1.

This significance of the 18 correlation is present in 3 directions: among the tests for evaluation cognitive (intellectual) abilities; among the tests for evaluation of the conative features; and among the cognitive tests and conative tests.

The coefficients of the correlations among the conative features tests are higher. They are in the range from -0, 48 to 0, 72.

The correlations among the cognitive abilities tests are considerably lower (from 0, 12 to 0,38).

The correlations among the cognitive abilities and conative features are not represented in a higher number. For instance, the correlations between cognitive test IT-1 (test for assessment of the efficiency of the perceptual processor) and each of the six conative tests are not statistically significant. There is only one statistically significant correlation of IT-2 (test for assessment of the efficiency of the parallel processor), with the conative test EPSILON-1 (the test for regulation of the excitatory and inhibitory process), and this correlation is of low value (0, 13).

There is higher correlation visible between the cognitive test ALPHA-7 (test for assessment of the efficiency of the serial processor), and most conative test. At this level ALPHA-7 has correlations with 4 out of 6 conative tests: with EPSILON-11 (the test for regulation of the excitatory and inhibitory process) (-0, 32); ETA-2( test for assesment of the system of integration of the regulation system) (0, 19), HI-1 (test for assessment of the efficiency of the system of regulation and control of the organic functions ) (1,016) and ALPHA-1 (test for assesment of the eficiency of the system of regulation and control of the personality defense functions) (0,12). This would mean that the major influence in the recognition of trademarks would have the subjects which have expressed intellectual ability evaluated by the ALPHA-7 test, as well as the subjects which have defined conative features, estimated by the tests : EPSILON-1; ETA-2, HI-1 and ALPHA-1.

All the above mentioned relations of the correlations among the cognitive and conative variables are defined in 3 groups:

- Group of correlations of cognitive abilities (Group 1);
- Group of correlations of conative features (Group 2);
- Less expressed group of correlations of ALPHA-7 and most conative tests (Group 3).

This grouping preliminary points out that hypothetically 3 latent dimensions (factors) exist in the cognitive and conative space, i.e. in the psychological space defined by the applied space.

This invoked the necessity to proceed with the method of principal components and their transformation with varimax and albumin solutions with parallel (pattern matrix) and orthogonal (structure matrix) projections.

**Table 27-B: Correlations of Cognitive and Conative Variables**

	IT-1	IT-2	ALPHA-7	EPSILON-1	ETA-2	DELTA-1	HI-1	SIGMA-1	ALPHA-1
IT-1	1	<b>,379</b>	<b>,155</b>	-.051	.027	.023	.064	.029	.092
IT-2	<b>,379</b>	1	<b>.118</b>	.130	.071	-.029	.022	.065	.076
ALPHA-7	<b>,155</b>	<b>.118</b>	1	<b>-312</b>	<b>,191</b>	.109	<b>,161</b>	.089	<b>.122</b>
EPSILON-1	-.051	<b>.130</b>	<b>-312</b>	1	-.024	.007	-.055	.315	.040
ETA-2	.027	.071	<b>,191</b>	<b>-.024</b>	1	<b>,485</b>	<b>,583</b>	<b>,479</b>	<b>,716</b>
DELTA-1	.023	-.029	.109	.007	<b>,485</b>	1	<b>,596</b>	<b>,543</b>	<b>,545</b>
HI-1	.064	.022	<b>,161</b>	-.055	<b>,583</b>	<b>,596</b>	1	<b>,523</b>	<b>,652</b>
SIGMA-1	.029	.065	.089	.315	<b>,479</b>	<b>,543</b>	<b>,523</b>	1	<b>,552</b>
ALPHA-1	.092	.076	<b>.122</b>	.040	<b>,716</b>	<b>,545</b>	<b>,652</b>	<b>,552</b>	1

**Table Legend:**

- IT-1= test for assesment of the efficency of the perceptual processor;
- IT-2=test for assesment of the efficency of the parallel processor;
- ALPHA-7=test for for assesment of the efficency of the serial processor;
- ALPHA-1=test for assesment of the efficency of the system of regulation and control of the personality defense functions;
- HI-1, test for assesment of the efficiency of the system of regulation and control of the organic functions;
- SIGMA-1, test for assesment of the efficiency of the system of regulation and control the attack reaction;
- DELTA-1, test for assesment of the homeostatic regulation system;
- ETA-2, test for assesment of the system of integration of the regulation system;
- EPSILON-1, test for regulation of the excitatory and inhibitory processes.

## 6.6.2. Eigenvalues of Cognitive and Conative Variables

Three statistically significant components are extracted from the computation of the correlations among the cognitive and conative variables (Table 28). The eigenvalue of the 1st principal component is 3, 33. Correspondingly, the percentage of the valid variance, i.e. of the cumulative valid variance of the 1st eigenvalue is 36, 98. The other two eigenvalues are considerably lower. Their cumulative values are high, so that the cumulative percentage of the valid variance of the 3rd eigenvalue is 68, 07. This means that the major percentage of the total valid variance of the applied system of cognitive and conative variables is exhausted.

**Table 28: Eigenvalues of Cognitive and Conative Variables**

Component	Initial Eigenvalues			Extraction Sums of Squared Loadings		
	Total	% of Variance	Cumulative %	Total	% of Variance	Cumulative %
1	3.328	36.978	36.978	3.328	36.978	36.978
2	1.492	16.574	53.552	1.492	16.574	53.552
3	1.306	14.516	68.068	1.306	14.516	68.068
4	.735	8.170	76.238			
5	.642	7.133	83.371			
6	.518	5.754	89.125			
7	.375	4.172	93.297			
8	.340	3.781	97.078			
9	.263	2.922	100.000			

Tables 29 and 30 represent the saturations of the principal components and the varimax factors for the system of Cognitive and Conative Variables. The 3 principal components, i.e. the varimax factors have clearly expressed quite high values. In this way, even in this phase of the saturation, it is quite clear that the existence of the isolated factors can be reasonably interpreted.

In favor of this are also the values of communalities ( $h^2$ ). They are in the range from 0,57 (in the AL-7 test) to 0,80 (in the EPSILON-1) test. It is noticeable that the communalities of the conative tests are generally higher.



**Table 29: Hotelling Significant Principal Components (H) with Communalities (h2)****(Cognitive and Conative Variables)**

	HCC1	HCC2	HCC3	Communalities (h2 )
IT_1	.126	.678	.404	.639
IT_2	.134	.564	.618	.719
AL_7	.222	.636	-.344	.571
EPSILON_1	.087	-.495	.741	.802
ETA_2	.807	.024	-.102	.662
DELTA_1	.767	-.117	-.118	.616
HI_1	.825	-.003	-.134	.698
SIGMA_1	.761	-.221	.224	.679
ALFA_1	.859	-.021	-.010	.739

**Table 30: Varimax Factors of the Cognitive and Conative Dimensions**

	VCCF1	VCCF2	VCCF3
IT_1	.022	.784	-.154
IT_2	.030	.844	.081
AL_7	.169	.268	-.686
EPSILON_1	.097	.138	.880
ETA_2	.803	.052	-.116
DELTA_1	.781	-.068	-.033
HI_1	.826	.013	-.123
SIGMA_1	.766	.082	.291
ALFA_1	.855	.087	-.019

The mentioned saturations in high degree overlap the corresponding saturations of the oblimin factors (pattern and structure). They are presented on Tables 31 and 32. These tables' loadings show the extraction of the simple structure of the cognitive and conative factors.

All three isolated factors have coefficients of saturations that are high and classified in a stable way, compared to the Hoteling principal components and the varimax factors.

**Table 31: Oblimin Factors (Pattern Matrix) of the Cognitive and Conative Dimensions**

	OPCCF1	OPCCF2	OPCCF3
IT_1	-.028	.784	-.124
IT_2	-.022	.851	.114
AL_7	.150	.239	-.675
EPSILON_1	.093	.164	.888
ETA_2	.803	.011	-.103
DELTA_1	.789	-.106	-.024
HI_1	.828	-.030	-.111
SIGMA_1	.766	.056	.306
ALFA_1	.853	.046	-.003

**Table 32: Oblimin Factors (Structure Matrix) of the Cognitive and Conative Dimensions**

	OSCCF1	OSCCF2	OSCCF3
IT_1	.062	.790	-.180
IT_2	.069	.840	.053
AL_7	.193	.305	-.696
EPSILON_1	.089	.109	.874
ETA_2	.807	.107	-.123
DELTA_1	.778	-.017	-.036
HI_1	.828	.069	-.129
SIGMA_1	.764	.118	.283
ALFA_1	.858	.141	-.028

**The 1st factor** in the pattern matrix (OPCCF1) is defined by all conative tests, except by EPSILON-1 (test for regulation of the excitatory and inhibitory processes). Those saturations are very high (0,80). The determination of the 1st factor includes the following coefficients: with ETA-2 (test for assesment of the system of integration of the regulation system) (0, 80); with DELTA-1(test for assesment of the homeostatic regulation system) (0,79); with HI-1 (test for assessment of the efficiency of the system of regulation and control of the organic functions) (0,83); with SIGMA-1 (test for assessment of the efficiency of the system of regulation and control the attack reaction) (0,77) and with ALFA-1 (test for assesment of the eficiency of the system of regulation and control of the personality defense functions ) (0,85).

In the structure matrix, the saturations of the conative tests overlap the saturations in the pattern matrix. These similar values are: 0, 81 (ETA-2); 0, 88 (DELTA-1); 0, 83 (HI-1); 0, 76 (SIGMA-1) and 0,86 (with ALFA-1).

Hence, according to the Oblimin saturations both in the pattern and in the structure matrix, as well as the above elaborated Hoteling principal components and the varimax factors, the 1st factor tends to be defined and can be designated as **general conative factor (CNF)**.

**The 2nd factor** in the pattern matrix (OPCCF2) is saturated with high values of IT-1 (test for assesment of the eficiency of the perceptual processor) (0,78) and with the IT-2 ( test for assesment of the eficiency of the parallel processor) (0,85). This fators is also saturated with high values in the structure matrix (OSCCF2) as well (IT-1: 0,79; IT-2: 0,84). In the structure matrix, the 2nd factor has a statistically significant satruarion with ALPHA-7( test for assesment of the eficiency of the serial processor). Although this saturrion is low (0,31), it supplements the possible logial interptetation of the 2nd factor, as **general cognitive factor (CGF)**. ALPHA-7 has high negative saturation with the 3rd factor (-0,70).

**The 3rd factor** in the pattern matrix (OPCCF3) is defined by the conative test EPSILON-1 (test for regulation of the excitatory and inhibitory processes) where its saturation is -0, 89. In the structure matrix, this factor (OSCCF2) has saturation of -0, 87. Furthermore, as stated previosly the 3rd factor is also saturated by ALPHA-7 ( test for for assesment of the eficiency of the serial processor), with saturations (-0,70 in the structure matrix and 0,87 in the pattern matrix). Obviously in both matrixes, ALPHA-7 is not sufficiently categorized in the general cognitive factor (CGF) and EPSILON-1 is lacking saturations in the general conative factor (CNF). The isolation of the 3rd factor is not sufficiently exact. The saturation of ALPHA-7 is negative, while the saturation of EPSILON-1 is negative. Those two saturations are of high values. **Hence, the 3rd factor can be nominated as bipolar factor.** At the negative pole are the subjects that have achieved low results of the ALPHA-7 test, while at the positive pole are the subjects with high results of the EPSILON-1 test. This structure of the 3rd factor (specially in reference to EPSILON-1), might be a consequence of certain circumstances such as gender difference, their age and the different degree of knowledge of subjects in terms of complete recongnition of trademark characteristics.

**Table 33: Matrix of Inter-correlation among the Cognitive and Conative Dimensions Factors**

Component	1	2	3
1	1.000	.110	-.025
2	.110	1.000	-.072
3	-.025	-.072	1.000

Table 33 represents the of inter-correlation among the cognitive and conative factors. Out of the 3 inter-correlations' coefficients, only one is at the border of statistical significance. This coefficient is 0,11 and refers to the association between the 1st general conative factor (CNF) and 2nd general cognitive factor (CGF). The other 2 inter-correlations' coefficients are not statistically significant and besides that they also have negative number values.

According to these matrix loadings, there in independence of the 1st general conative factor (CNF) from the 3rd (bipolar) factor. Such independence exists of the 2nd general cognitive factor (CGF) and the 3rd (bipolar) factor. Therefore, even though the three factors are from the same psychological space, the independence shows that the 3 factors are different. Because of that, in the subsequent procedure the three factors are factorized in a upper level (level 2).

### **6.6.3. Cognitive and Conative Secondary Factor (Level 2)**

With the subsequent upper level factorization (level 2), one eigenvalue is extracted, with value of 1,14. The percentage of valid variance is 38.14. Of course, since one eigenvalue is isolated, the percentage of cumulative valid variance is identical. According to the unique eigenvalue obtained, unique principal component is defined (Table 29).

Since only one principal component is defined, further transformation of this principal component is not accomplished, i.e. the principal component at the same time represents a varimax factor and the oblimin factor in solution of pattern factor and structure factor. In other words, the principal component is a cognitive and conative secondary factor, composed of the 3 primary factors (CNF, CGF and the 3rd bipolar factor).

The communalities are in the framework of the average value, except for the communality of the 3rd primary factor. Namely the values are: general conative factor (CNF): 0,40; general cognitive factor (CGF):0,52) and of the 3rd bipolar factor=0,22.

Having in mind the above values of Tables 34 and 35, the integrated secondary factor can be defined as general **cognitive-conative (psychological) factor (GPF)**.

**This general cognitive-conative (psychological) factor in the realization of the research aim will be treated as general influence on estimations of the trademark characteristics.**

**Table 34: Eigenvalues of the Cognitive and Conative Dimensions (Level 2)**

Component	Initial Eigenvalues		
	Total	% of Variance	Cumulative %
1	1.144	38.137	38.137
2	.978	32.588	70.725
3	.878	29.275	100.000

**Table 35: Cognitive and Conative Secondary Factor Matrix (Level 2)**

	Component	Communalities (h <sup>2</sup> )
	1	
CNF	.633	.401
CGF	.722	.521
3rd factor	-.471	.222

\* \* \*

The hierarchical (multi-level) factor analysis has shown that the respondents that high attention during the assessments of trademarks.

The factor analysis realized for determination of the trademark characteristics is of exploratory character. It's goal is to explain the factors of variables that haven't been assessed before (newly developed questionnaire).

In this circumstances, the nomination of the existing trademark characteristics factors is not final i.e. they are assumptively nominated. New researches will contribute towards establishing definite names of the factors. The final decision on the nomination would reflect logic and conventionality.

On the other hand, in the case of the psychological variable, the factor analysis is confirmatory, its aim is to verify the previously explored factor structure (cognitive and conative latent dimensions) in a new setting.

Both matrixes comprise the factor structure. More often, the structure matrix<sup>378</sup> has more statistically significant saturations, but due to their insufficient clarity, which is a consequence of the correlation without causality, the correlation can't be entirely explained only by the structure matrix. The cause and effect relations is more visible from the pattern matrix.

The methodologically and statistically secure existentiality of the isolated trademark characteristics factors and psychological factors, provide justification for examination of the influence of psychological factors overt the recognition and assessment of trademarks.

---

<sup>378</sup> Perhaps a more accurate term would be “matrix of orthogonal projections”, instead of “structure matrix”.

## **6.7. Regression Analysis Of The Trademark Characteristics Factors And The Cognitive And Conative Variables**

Regression Analysis Results of the Trademark Characteristics and the Cognitive and Conative Dimensions are listed on Tables 36- 128 accordance with the research aim and for the purpose of determination of more accurate relations of the influence of cognitive and conative dimensions over the trademark characteristics, the regression analysis is applied in 2 variants:

- a) Regression Analysis in which the manifest cognitive and conative dimensions are taken as set of predictors (independent variables), while the factors (latent dimensions) isolated from the manifest trademark characteristics variables (tests) are situated as criteria dimensions (dependent variables). This variant is defined as **regression analysis in combined space.**
- b) Regression Analysis in which the cognitive and conative factors are taken as set of predictors, while the factors of the trademark characteristics' factors are placed as criteria dimensions (variables). This variant of regression analysis is treated as **regression analysis in latent space.**

The appliance of both regression analysis variants has demonstrated cases of presence of statistically significant influence of the manifest and latent cognitive and conative variables over the latent trademarks' characteristics variables (factors), while in other cases absence of such influence.

In order to have an assessment in the wider legal context, in some cases after the regression analysis of the appropriate primary factor, relevant available jurisprudence is examined, for the purpose of outlining the future capacities and possibilities of the practical importance of the research.

**6.7.1. Regression Analysis in Combined Space of the Trademark Characteristics Primary Factors (F1-F28) with the Cognitive and Conative Variables**

**6.7.1.1. Trademarks Visual and Figurative Similarity Factor (F1)**

**Regression Analysis of the 1st Trademark Characteristics' Factor (F1) (Trademarks Visual and Figurative Similarity Factor) With the Cognitive and Conative Variables**

Table 36: Regression Analysis of the 1st Trademark Characteristics' Factor (F1) (Trademarks Visual and Figurative Similarity Factor) With the Cognitive and Conative Variables

Variables	R	Part-R	Beta	Sig.
IT-1	-,041	-.040	-,043	,570
IT_2	-,014	-.013	-,015	,849
ALPHA-7	-,142	-.139	-,154	,047
EPSILON-1	-,177	-.174	-,206	,013
ETA-2	,075	.073	,109	,296
DELTA-1	-,047	-.046	-,062	,513
HI-1	,080	.077	,114	,267
SIGMA-1	,030	.029	,041	,680
ALPHA_1	-,071	-.069	-,114	,320

R	R Square	Sig.
,248a	.061	,186b

Table 36 addresses two important issues.



Firstly, the table shows influence of the entire set of manifest variables (IT-1: efficiency of the perceptual processor; IT-2: efficiency of the parallel processor; ALPHA-7: efficiency of the serial processor; ALPHA-1: efficiency of the system of regulation and control of the personality defense functions; HI-1: efficiency of the system of regulation and control of the organic functions; SIGMA-1: efficiency of the system of regulation and control the attack reaction; DELTA-1, test for assesment of the homeostatic regulation system; ETA-2: system of integration of the regulation system; EPSILON-1: test for regulation of the excitatory and inhibitory processes) over the 1st trademark characteristics primary factor (F1) (Trademarks Visual and Figurative Similarity Factor).

Secondly, the table loadings point out the as the separate influence of each cognitive and conative manifest variable over the Trademarks Visual and Figurative Similarity Factor.

The entire set of manifests (independent) cognitive and conative variables (as a whole) doesn't have an influence over the 1st primary factor (dependent variable) (visual and figurative similarity as a latent dimension, defined as trademark characteristic). The influence of the set is Sig. 0,19. This proves that the influence is not expressed at the level of significance of 0,05. In other words, one can assert (with probability of 95%) that the recognition of the visual and figurative similarity of trademarks is not dependent on the entire system of the cognitive abilities and the conative features of the subjects (respondents).

The multiple correlation of the set of the manifest variables with the factor (R), as a measurement of association (without determinant casualty) is 0,25. Although, this correlation is realistically expressed, the correlation is not statistical significant.

The absence of statistical significance is also visible from the coefficient of determination R Square (0,06) which is square root of the multiple correlation (measurement of determinant causality). R square, shows the percentage of the influence of the entire set over the factor (F1), so in this case practically there is no influence of the entire cognitive and conative set over the recognition of the visual and figurative similarity of trademarks.

The influence of each cognitive and conative variable as part of the influence of the entire set (interpreted above) over the 1st primary factor (F1), is defined by the Pearson's correlations (R), partial correlations Part-R, Beta-coefficients and statistical significance of the differences (Sig.).

Pearson's correlations which are not the clearest indicators of the association of each variable and the 1st factor (since are not clean from the other variables in the system, i.e. it is masked with the influence of the other variables from the system) are statistically significant in two cases only. These correlations appear not to be excessively high, but still their significance is at the level of 0,05.

One of these R correlations is between the cognitive test ALPHA-7 (eficiency of the serial processor) and the 1st primary trademark factor (-0,14). The 2nd correlation is between the conative test EPSILON-1 (regulation of the excitatory and inhibitory processes) (-0,18). The 2nd R correlation is statistically significant on lower level. i.e. it is on the border line of significance at the level of 0,01. Accordingly, the probability of the association between the regulation the excitatory and inhibitory processes and the recognition of the trademark visual and figurative similarity is around 99%.

The partial correlations (Part-R) of ALPHA-7 and EPSILON 1 with F1, have similar statistically significant numerical values with the Pearson's correlations (-0,14; -0,17). However, since the partial correlations' coefficients are cleaned from the other variables influence over F1, the partial correlations have larger methodological importance and exactness during the analysis of ALPHA-7 and EPSILON 1 and the primary factor. More specifically in more determinant way, they outline the influence between the eficiency of the serial processor, the regulation the excitatory and inhibitory processes over the recognition of the trademark visual and figurative similarity.

The numerical values of the Beta-coefficients are analogous to the Pearson's correlations (R) and the partial correlations (Part-R). The Beta-coefficient between the cognitive test ALPHA-7 and F1 is -0,15; while between the conative test EPSILON-1 and F1 is -0,21. As most important comparative indicator of the predatory influence of each variable, B-coefficients designate the ranking of such influence. In this case, recognition of the trademarks visual and figurative similarity (F1) is more influenced

by the regulation of excitatory and inhibitory processes (EPSILON-1), than by the influence of the efficiency of the serial processor (ALFA7).

However, we must mention that even though there is statistical significance (Sig) of R, part-R and Beta (which in the case of ALPHA-7 is 0,05; while in EPSILON-1 is 0,01), the influence of ALPHA-7 and EPSILON-1 over F1 might be accidental.

This is derived from the fact that the influence of the entire set (system) of cognitive and conative variables over F1 has no statistical significance. Due to this situation, the above-mentioned influence is uncertain.

The other applied cognitive and conative variables of the set, lack statistical significance in the estimation of the success of recognition of the criterion variable, which in this case is defined with the factor of trademark visual and figurative similarity. Consequently, from methodological stand point these aspects are not interpreted, since there is absence of statistically significant predatory influence.

#### **6.7.1.1.1. Trademarks Visual and Figurative Similarity Jurisprudence Example: Bimbo/OHIM Case (C-591/12 P; ECLI:EU:C:2014:30)**

Besides the previously mentioned Puma/Sabel case (CJEU C-251/95; ECLI:EU:C:1997:528), one of the relevant cases in terms of attempts for establishing case-law criteria for similarity is the Bimbo/OHIM case (C-591/12 P; ECLI:EU:C:2014:30).<sup>379</sup>

In this case, in 2014, Bimbo SA, a company based in Spain, applied for a Community Trademark, a word mark BIMBO DOGHNUTS, . The application was opposed by an owner of a earlier trademark DOGHNUTS (registered in Spain), after which Bimbo's application was refused. In the appellate procedure, the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) dismissed Bimbo SA appeal. Afterwards, BIMBO SA launched an before the European Court of Justice (ECJ), seeking alteration — or, in the alternative, annulment — of the contested decision, arguing for infringement of Articles 75 and 76 of Regulation No 207/2009 and (infringement of Article

---

<sup>379</sup> Judgment and Opinion of the Court available at: <http://curia.europa.eu/juris/liste.jsf?&num=C-591/12P>

8(1)(b) of that regulation. By the judgment under appeal, the General Court declared inadmissible the application for alteration of the contested decision and rejected the pleas raised in support of the application for annulment of that decision.

One of the key issue addressed by the Court in terms of the perception of the consumers of the elements of the sign, the overall impression and other circumstances.

Namely, in the judgment (paragraphs 21-29), the court noted that:

*“The global assessment of the likelihood of confusion, in relation to the visual, aural or conceptual similarity of the marks at issue, must be based on the overall impression given by the marks, account being taken, in particular, of their distinctive and dominant components. The perception of the marks by the average consumer of the goods or services in question plays a decisive role in the global assessment of that likelihood of confusion. In this regard, the average consumer normally perceives a mark as a whole and does not proceed to analyze its various details (see, to that effect, SABEL EU:C:1997:528, paragraph 23; OHIM v Shaker EU:C:2007:333, paragraph 35; and Nestlé v OHIM EU:C:2007:539, paragraph 34).*

*The assessment of the similarity between two marks means more than taking just one component of a composite trade mark and comparing it with another mark. On the contrary, the comparison must be made by examining each of the marks in question as a whole (OHIM v Shaker EU:C:2007:333, paragraph 41).*

*The overall impression conveyed to the relevant public by a composite trade mark may, in certain circumstances, be dominated by one or more of its components. However, it is only if all the other components of the mark are negligible that the assessment of the similarity can be carried out solely on the basis of the dominant element (OHIM v Shaker EU:C:2007:333, paragraphs 41 and 42, and Nestlé v OHIM EU:C:2007:539, paragraphs 42 and 43 and the case-law cited).*

*In this connection, the Court of Justice has stated that it is possible that an earlier mark used by a third party in a composite sign that includes the name of the company of the third party retains an independent distinctive role in the composite sign. Accordingly, in order to establish the likelihood of confusion, it suffices that, on account of the earlier mark still having an independent distinctive role, the public attributes the origin of the goods or services covered by the composite sign to the owner of that mark (Case C-120/04 Medion EU:C:2005:594, paragraphs 30 and 36, and order in Case C-353/09 P Perfetti Van Melle v OHIM EU:C:2011:73, paragraph 36).*

*None the less, a component of a composite sign does not retain such an independent distinctive role if, together with the other component or components of the sign, that component forms a unit having a different meaning as compared with the meaning of those components taken separately (see, to that effect, order in Case C-23/09 P Eco blue v OHIM and Banco Bilbao Vizcaya Argentaria EU:C:2010:35, paragraph 47; Becker v Harman International Industries EU:C:2010:368, paragraphs 37 and 38; and order in Perfetti Van Melle v OHIM EU:C:2011:73, paragraphs 36 and 37).*

*In the present case, the General Court found, in paragraphs 79 and 81 of the judgment under appeal, that, even if the element 'bimbo' were dominant in the trade mark for which registration was sought, the 'doughnuts' element was not negligible in the overall impression produced by that trade mark and, accordingly, the 'doughnuts' element had to be taken into account in the comparison of the trade marks at issue.*

27 *In paragraph 97 of that judgment, the General Court stated that, since the 'doughnuts' element is wholly meaningless for the relevant public, that element did not form, together with the other element of the sign, a unit having a different meaning as compared with the meaning of those elements taken separately. It accordingly found that the 'doughnuts' element still had an independent distinctive role in the trade mark for which registration was sought and had therefore to be taken into account in the global assessment of the likelihood of confusion.*

28 *In paragraph 100 of the judgment under appeal, the General Court held that, in the light of all factors relevant to the case, the global assessment confirmed the Board of Appeal's conclusion that there was a likelihood of confusion.*

29 *Accordingly, the General Court did not conclude that there was a likelihood of confusion merely from the finding that, in the trade mark applied for, the 'doughnuts' element has an independent distinctive role, but based its conclusion in that regard on a global assessment that included the different stages of the examination required under the case-law referred to in paragraphs 19 to 25 above, and in the course of which it took into account the factors of the case. It thus correctly applied Article 8(1)(b) of Regulation No 40/94."*

#### **6.7.1.2. 2nd Trademark Characteristics' Factor (F2)**

##### **Regression Analysis of the 2nd Trademark Characteristics' Factor (F2) With the Cognitive and Conative Variables**

The loadings given in Table 37, prove that the influence of the entire set of manifests (independent) cognitive and conative variables (as a whole) over the 2nd primary factor (dependent variable) is statistically significant at the level of 0,05. This is evident from the value of Sig., which reads 0, 03.

The multiple correlation of the system of variables, according to this value is rather expressed: 0, 30. Corresponding to this value is the coefficient of determination of the applied variables system is 9%. Actually, this percentage explains the total valid variance of the applied

cognitive abilities and conative features, defined as predatory system (The entire of set of cognitive and conative influences 9% on the 2nd Trademark Characteristics' Factor (F2) .

The remaining part of the percentage of the influence (up to 100%), can be assigned, i.e. it's a result of other known and unknown psychological characteristics which are not taken into the set of variables in this research. Furthermore, this influence is an outcome of: other anthropological characteristics and abilities of the subjects (also not treated in the research); of other factors of subjects' knowledge on trademarks; sociological status of the subjects; conditions in which the testing (measurements) was performed; and similar circumstances.

Table 37 data set furthermore shows that according the size and the statistical significance of the Beta-coefficients EPSILON-1 (regulation of the excitatory and inhibitory processes) as manifest variable has greatest contribution in the statistical significance of the entire system of variables over the recognition of the 2nd trademark characteristics primary factor (F2).

The values of the Pearson's correlation and the coefficient of determination have similar numerical values. Pearson's correlation is 0,19, and the partial correlation is 0,18. This values are statistically significant at the level of 0,01 ( $p=0,008$ ). Similar values of Pearson's correlation and the coefficient of determination also designate that the influence of EPSILON-1 is clearly expressed in large measure, without noticeable participation of other applied variables in the system (IT-1; IT\_2; ALPHA-7; ETA-2; 2; DELTA-1; HI-1; SIGMA-1; ALPHA-1).

The EPSILON-1 Beta coefficient is higher than the Pearson's coefficient and the partial correlations coefficient. Its value is defined as statistically significant at the level of 0,01. Based on this level, one can assert with probability that this test has expressive influence of above 90% over the structure of the 2nd trademark characteristics primary factor (F2). Remaining Beta coefficients (of the other variables) are much lower and their range is from 0,07 to 0,13.

Table 37: Regression Analysis of the 2nd Trademark Characteristics' Factor (F2) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
				,235
IT-1	-,012	-,011	-,012	,870
IT_2	-,073	-,069	-,077	,312
ALPHA-7	-,067	-,064	-,070	,354
EPSILON-1	,189	,184	,217	,008
ETA-2	-,012	-,011	-,017	,870
DELTA-1	-,103	-,099	-,134	,151
HI-1	-,010	-,010	-,015	,885
SIGMA-1	-,075	-,072	-,103	,294
ALPHA_1	,056	,054	,088	,434

R	R Square	Sig
,298a	,089	,031b

### 6.7.1.3. Factor of Distinctiveness (Denominations) and Figurative Signs (F3)

#### **Regression Analysis of the 3rd Trademark Characteristics' Factor (F3) (Factor of Distinctiveness (Denominations) and Figurative Signs) With the Cognitive and Conative Variables**

Regarding the influence of the cognitive abilities and conative features on the 3rd Trademark Characteristics' Factor (F3) (Factor of Distinctiveness (Denominations) and Figurative Signs) represented on Table 38, this influence is also statistically significant as in the case of F2.

The value of this influence is 0,03, which signifies the probability of this influence is above 95 % ( $p < 0,05$ ). The multiple correlation coefficient of the variables set (R), compared to the influence of the criterion variable (F3) (Factor of Distinctiveness (Denominations) and Figurative Signs) is 0.30. The coefficient of determination (R-square) is 0,09.

During the production of the statistical significance of the variables set over the criterion variable, the major contribution is given by the predictory manifest cognitive variable

ALPHA-7 (eficiency of the serial processor). Its statistically significant influence is expressed at the border line of significance at the level of 0, 01 (Sig. =0,014). Although ALPHA-7 (eficiency of the serial processor). is the only one that influences on the recognition of distinctiveness of denominations and figurative signs, it is noticeable that its coefficients of Pearson's correlation (R) and of the partial determination (Part-R) are still sufficiently favorable. R is present with a value of -0, 18, while Part-R reads -0, 17.

In accordance with these coefficients is the value of the Beta coefficients which is 0, 19. This also proves that merely ALPHA-7 statistically significant determines the influence on the 3rd trademark characteristics primary factor. Hence, the remaining cognitive and conative variables don't have statistically significant influence over the 3rd factor, i.e. the recognition of distinctiveness of denominations and figurative signs doesn't depend on the remaining cognitive abilities and conative features.

Table 38: Regression Analysis of the 3rd Trademark Characteristics' Factor (F3) (Factor of Distinctiveness (Denominations) and Figurative Signs) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1				,142
IT_2	-.017	-.016	-.018	,815
ALPHA-7	-.048	-.046	-.051	,504
EPSILON-1	-.175	-.169	-.187	,014
ETA-2	,113	,108	,128	,116
DELTA-1	-.058	-.056	-.083	,416
HI-1	,028	,027	,036	,698
SIGMA-1	,020	,019	,028	,779
ALPHA_1	-.048	-.046	-.066	,505
	-.018	-.017	-.027	,807

R	R Square	Sig.
,296a	,088	,034b

#### 6.7.1.3.1. BioID AG/Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), (C-37/03 P; ECLI:EU:C:2005:547)

On 8 July 1998, D.C.S. Dialog Communication Systems AG, filed an application with OHIM for a Community trade mark in respect of a compound mark "BioID". The examiner refused the registration, arguing the mark applied for was descriptive of the goods concerned



and devoid of any distinctive character in the sense of Article 7(1)(b) and (c) of Regulation No 40/94. T

The appellant appealed against that decision and the Second Board of Appeal of OHIM dismissed the appeal with an argument that Article 7(1)(b) and (c) of Regulation No 40/94 precluded registration of the trade mark applied for, since the latter, read as a whole, constitutes a shortened form of the words 'biometric identification' and therefore contained description of the characteristics of the goods and services.

In 2001, the applicant has launched an application before the Court of First Instance, which was rejected by the court, among other claiming that:

*“... from the point of view of the relevant public, the abbreviation BioID was likely to be commonly used, in trade, for the presentation of the goods and services in the categories referred to in the application for registration. Accordingly, it is devoid of distinctive character as regards those categories of goods and services” and that “the figurative elements of the trade mark applied for, consisting of ‘Arial’ typeface and characters of different boldness, are commonly used, in trade, for the presentation of all types of goods and services and are thus devoid of distinctive character in relation to the categories of goods and services concerned”.*<sup>380</sup>

In the appeal, to the Court of Justice, the applicant alleged that the Court of First Instance interpreted incorrectly and too broadly the absolute ground for refusal to register trade marks which are devoid of any distinctive character, laid down in Article 7(1)(b) of Regulation No 40/94. Also, the applicant argued that “if the Court of First Instance interpreted the latter provision of the regulation correctly, it erred in law in not dealing with the second plea submitted at first instance, alleging infringement of that regulation.”<sup>381</sup>

The court has dismissed the action of the applicant on the following grounds that “...bearing in mind the goods and services covered by the trade mark application ... it appears that the relevant public is one with experience in the sector of the goods and services in question, reasonably well-informed and reasonably observant and circumspect..”<sup>382</sup>

It seems that one of the key arguments of the court was that since “ the trade mark applied for contains the abbreviation BioID and figurative elements, namely the typographical characteristics of that abbreviation, and two graphic elements placed after the abbreviation BioID, namely a full stop (■) and a sign (®)”,<sup>383</sup> the OHIM position was right, since “the relevant public will understand BioID, in the light of the goods and services claimed in the trade mark application, as being made up of the abbreviation of an adjective ‘biometrical’ and

---

<sup>380</sup> BioID AG/Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), (C-37/03 P; ECLI:EU:C:2005:547)

<sup>381</sup> Ibid.

<sup>382</sup> Ibid, para. 68.

<sup>383</sup> Ibid , para. 69.

of a noun ('identification'), and thus, as a whole, as meaning 'biometrical identification'. Therefore, that abbreviation, which is indistinguishable from the goods and services covered by the trade mark application, is not of a character which can guarantee the identity of the origin of the marked product or service to the consumer or end-user from the viewpoint of the relevant public."<sup>384</sup> The Court has also accepted the opinion of the Advocate General , when the overall impression conveyed by the trade mark applied for to the relevant public is examined, the abbreviation BioID, which is devoid of any distinctive character, is the dominant element of that mark.<sup>385</sup>

#### **6.7.1.4. Factor of Trademark Guarantee Function (F4)**

##### **Regression Analysis of the 4th Trademark Characteristics' Factor (F4) (Factor of Trademark Guarantee Function) with the Cognitive and Conative Variables**

Table 39 reports a lack of significance of the complete set of manifest (independent) cognitive and conative variables (as a whole) on the trademark guarantee function (4th trademark characteristics factors). The influence of the set is Sig. 0, 08. With probability of above 95% one can claim that the trademark guarantee function is not influenced by the set ( IT-1: efficiency of the perceptual processor; IT-2: efficiency of the parallel processor; ALPHA-7: efficiency of the serial processor; ALPHA-1: efficiency of the system of regulation and control of the personality defense functions; HI-1: efficiency of the system of regulation and control of the organic functions; SIGMA-1: efficiency of the system of regulation and control the attack reaction; DELTA-1, test for assesment of the homeostatic regulation system; ETA-2: system of integration of the regulation system; EPSILON-1: test for regulation of the excitatory and inhibitory).

Since the multiple correlation coefficient (R) has a value of 0, 28 and the coefficient of determination (R Square) is 0, 08, once more we can confirm that the entire system of cognitive and conative variables has no statistical significant influence.

The table also notes that the SIGMA-1 influence is statistically significant at the level of 0, 05. Hence, there is univariate influence (which is in fractional influence of one variable as predictor) of the efficiency of the system of regulation and control the attack reaction on the guarantee function. However, having in mind the absence of a multivariate inflinece (influence on a multivariate level of the netire system), in this context the SIGMA-1 influence is considered as accidental and is not taken into accoutn as certain.

---

<sup>384</sup> Ibid, para. 70.

<sup>385</sup> Ibid, para. 73.

Table 39: Regression Analysis of the 4th Trademark Characteristics' Factor (F4) (Factor of Trademark Guarantee Function) with the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,036	,034	,038	,125 ,620
IT_2	,035	,034	,038	,623
ALPHA-7	-,001	-,001	-,001	,994
EPSILON-1	,023	,022	,026	,746
ETA-2	-,066	-,064	-,095	,355
DELTA-1	,008	,007	,010	,914
HI-1	-,004	-,004	-,006	,951
SIGMA-1	,194	,190	,272	,007
ALPHA_1	,020	,019	,031	,783

R	R Square	Sig.
,276a	,076	,075b

**6.7.1.4.1. L'Oréal SA, Lancôme parfums et beauté & Cie SNC, Laboratoire Garnier & Cie/Bellure NV, Malaika Investments Ltd, trading as 'Honey pot cosmetic & Perfumery Sales', Starion International Ltd Case (C-487/07; ECLI:EU:C:2009:378)**

According to recent theoretical approach (Basire), this jurisprudence example practically meant recognition of the trademark function of the guarantee of quality, already established in the nineteenth century in French jurisprudence.<sup>386</sup>

The case included a request for preliminary ruling submitted by the Court of Appeal (England and Wales) (Civil Division) decided to refer to the Court of Justice for with the reference made in proceedings brought by L'Oréal SA, Lancôme parfums et beauté & Cie SNC and Laboratoire Garnier & Cie (together 'L'Oréal and Others') against Bellure NV ('Bellure'), Malaika Investments Ltd, trading as 'Honey pot cosmetic & Perfumery Sales' ('Malaika'), and

---

<sup>386</sup> Basire, Y. (2011). *Les fonctions de la marque, Essai sur la cohérence du régime juridique d'un signe distinctif* (Thèse), École doctorale de Droit, Science politique et Histoire, Université de Strasbourg, p.197.

Starion International Ltd ('Starion'), in which the claimants seek a declaration that their trade mark rights have been infringed by the defendants.<sup>387</sup>

According to the description of the dispute in the main proceedings and the questions referred to a preliminary ruling, L'Oréal and Others are members of the L'Oréal group, which produces and markets fine fragrances. In the United Kingdom, they are proprietors of the following well-known trade marks, which are registered for perfumes and other fragrance products (the Trésor perfume marks), while Malaika and Starion market imitations of fine fragrances as the 'Creation Lamis' range. Starion also markets imitations of fine fragrances as the 'Dorall' and 'Stitch' ranges. The 'Creation Lamis' range comprises, in particular, the La Valeur perfume, which is an imitation of the Trésor perfume, with the bottle and packaging in which it is sold being generally similar in appearance to those of the Trésor brand. It also comprises the Pink Wonder perfume, which is an imitation of the Miracle perfume, with the bottle and packaging in which it is sold being generally similar in appearance to those of the Miracle brand. The 'Dorall' range comprises, in particular, the Coffret d'Or perfume, which is an imitation of the Trésor perfume, with the bottle and packaging in which it is sold being slightly similar in appearance to those of the Trésor brand. The packaging in which the 'Stitch' range is sold is basic in appearance and bears no resemblance to the bottles and packaging of the fragrances marketed by L'Oréal and Others.<sup>388</sup>

The court findings were that:

*"...As regards detriment to the repute of the mark, also referred to as 'tarnishment' or 'degradation', such detriment is caused when the goods or services for which the identical or similar sign is used by the third party may be perceived by the public in such a way that the trade mark's power of attraction is reduced. The likelihood of such detriment may arise in particular from the fact that the goods or services offered by the third party possess a characteristic or a quality which is liable to have a negative impact on the image of the mark."*<sup>389</sup>

as well as that:

*"... the Court has already held that the exclusive right under Article 5(1)(a) of Directive 89/104 was conferred in order to enable the trade mark proprietor to protect his specific interests as proprietor, that is, to ensure that the trade mark can fulfil its functions and that, therefore, the exercise of that right must be reserved to cases in which a third party's use of the sign affects*

---

<sup>387</sup> C-487/07; ECLI:EU:C: 2009:378.

<sup>388</sup> Ibid, para. 14-20.

<sup>389</sup> Ibid, para.40.

or is liable to affect the functions of the trade mark (Case C-206/01 Arsenal Football Club [2002] ECR I-10273, paragraph 51; Case C-245/02 Anheuser-Busch [2004] ECR I-10989, paragraph 59; and Case C-48/05 Adam Opel [2007] ECR I-1017, paragraph 21). These functions include not only the essential function of the trade mark, which is to guarantee to consumers the origin of the goods or services, but also its other functions, in particular that of guaranteeing the quality of the goods or services in question and those of communication, investment or advertising...<sup>390</sup>

Consequently, in his ruling the court has found that:<sup>391</sup>

"1. Article 5(2) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks must be interpreted as meaning that the taking of unfair advantage of the distinctive character or the repute of a mark, within the meaning of that provision, does not require that there be a likelihood of confusion or a likelihood of detriment to the distinctive character or the repute of the mark or, more generally, to its proprietor. The advantage arising from the use by a third party of a sign similar to a mark with a reputation is an advantage taken unfairly by that third party of the distinctive character or the repute of that mark where that party seeks by that use to ride on the coat-tails of the mark with a reputation in order to benefit from the power of attraction, the reputation and the prestige of that mark and to exploit, without paying any financial compensation, the marketing effort expended by the proprietor of the mark in order to create and maintain the mark's image.

2. Article 5(1)(a) of Directive 89/104 must be interpreted as meaning that the proprietor of a registered trade mark is entitled to prevent the use by a third party, in a comparative advertisement which does not satisfy all the conditions, laid down in Article 3a(1) of Council Directive 84/450/EEC of 10 September 1984 concerning misleading and comparative advertising, as amended by Directive 97/55/EC of the European Parliament and of the Council of 6 October 1997, under which comparative advertising is permitted, of a sign identical with that mark in relation to goods or services which are identical with those for which that mark was registered, even where such use is not capable of jeopardising the essential function of the mark, which is to indicate the origin of the goods or services, provided that such use affects or is liable to affect one of the other functions of the mark.

3. Article 3a(1) of Directive 84/450, as amended by Directive 97/55, must be interpreted as meaning that an advertiser who states explicitly or implicitly in comparative advertising that the product marketed by him is an imitation of a product bearing a well-known trade mark presents 'goods or services as imitations or replicas' within the meaning of Article 3a(1)(h). The advantage gained by the advertiser as a result of such unlawful comparative advertising

---

<sup>390</sup> Ibid, para.58.

<sup>391</sup> Ibid.

*must be considered to be an advantage taken unfairly of the reputation of that mark within the meaning of Article 3a(1)(g)."*

#### **6.7.1.5. 5th Trademark Characteristics' Factor (F5)**

#### **Regression Analysis of the 5th Trademark Characteristics' Factor (F5) With the Cognitive and Conative Variables**

There is multivariate influence of the system of the cognitive and conative variables on the 5th trademark characteristics primary factor (F5), which is statistically significant at the level of 0, 05 (Sig. =0,02). Both multiple correlation coefficient of the system (R) and the coefficient of determination (R Square) read statistically significant values (R=0, 31; R-Square=0, 09). Since the coefficient of determination can also be presented in percentage, the multivariate influence of the cognitive and conative variables system over the 5th primary trademark characteristics factor is 9%.

The univariate influence is represented by three conative variables from the system:

- EPSILON-1 regulation of the excitatory and inhibitory processes
- ETA-2 system of integration of the regulation system
- DELTA-1 assesment of the homeostatic regulation system

The statistically significant influence of the above variables is visible from the Sig. coefficients. For EPSILON-1, the Sig is 0, 03; for ETA=2 the value of Sig is 0, 04, and for DELTA-1 Sig is 0, 02. All three coefficients are statistically significant at the level of 0, 05. Therefore, in this case the probable error of estimation of the influence of EPSILON-1, ETA-2 and DELTA-1 is less than 5%. This probability of the significance also refers to their coefficients (R, Part-R and Beta).

The coefficients of correlation (R) values are: 0, 16 for EPSILON-1; 0, 15 for ETA-2; and 0, 17 for DELTA 1.

The coefficients of partial correlations (Part-R) values (which are insignificantly lower than R, which is often the case due to their clarity and non-saturation by the other variables from the system) are: 0,152 for EPSILON-1; 0,145 for ETA-2; and 0,167 for DELTA-1

The Beta coefficients have different values for each of the three variables. The highest value is present at the Beta coefficient for DELTA-1 (0, 23). This proves that this test

(assessment of the homeostatic regulation system) has greatest influence on the 5th trademark characteristics primary factor, with respect to all applied tests in the system of variables, and accordingly is more influential than EPSILON-1 and ETA-2. In addition, according to their Beta coefficients ETA-2 (Beta=0,216) is second in the ranking of the influence, while EPILON-1 (Beta=0,180) is third in the ranking of the influential over the 5th primary trademark characteristics factor.

This means that the subjects (consumers) that have achieved highest results in DELTA-1 (assesment of the homeostatic regulation system) had better success in the evaluation the F5 factor.

As one of the possible solutions in the practical application of these results, for the purpose of more successful recognition of the 5th primary trademark characteristics factor (F5), it is expected that the subjects with higher achievements in DELTA-2, EPSILON-1 and ETA-2 would achieve higher results. As a supplement to this consideration, the degree of subjects' achievement in these conative tests would precede the evaluation of F5.

Table 40: Regression Analysis of the 5th Trademark Characteristics' Factor (F5) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-,047	-,045	-,049	,001 ,512
IT_2	,043	,041	,046	,546
ALPHA-7	,118	,113	,125	,100
EPSILON-1	,158	,152	,180	,027
ETA-2	,150	,145	,216	,035
DELTA-1	,173	,167	,226	,015
HI-1	-,086	-,082	-,120	,232
SIGMA-1	-,065	-,062	-,089	,365
ALPHA_1	-,061	-,058	-,094	,399

R	R Square	Sig.
,306a	,094	,022b

#### 6.7.1.5.1. FCUK, Trade mark Application Number: 2184549 (Case: 0-137-06)

In the above case for registration of FCUK, an application was approved in the UK (Registration No. 2184549) a for a variety of goods and services owned by French Connection. In fact, the acronym FCUK stands for French Connection United Kingdom. At the same time, it is considered as “a wordplay on the word ‘fuck’”.<sup>392</sup>

A retired businessman, Dennis Woodman, appealed the approval of the UK registry, outlining that

*"the registration be declared invalid on the ground that the registration was contrary to section 3(3)(a) of the Trade Marks Act 1994. This provides that: A trade mark shall not be registered if it is ... contrary to public policy or accepted principles of morality."*<sup>393</sup>

The hearing officer during the appeal procedure, has reviewed the allegations of Mr. Woodman, as well as the arguments of French Connection. In his elaboration of the decision, the officer has elaborated the following:

*"In my judgment the hearing officer made no error of principle in his decision. Indeed, I would go further. I consider that his decision was correct. I agree with him that the intrinsic qualities of the mark FCUK are not such as to render it objectionable. It is not the swear word even though it can be used, and has been used, to evoke the swear word. Accordingly, the generally accepted moral principle prohibiting the use of swear words does not apply to it. This conclusion is supported by the evidence that, not only have both the UK Trade Marks Registry and OHIM accepted the mark FCUK for registration, but also none of the regulators who have*

---

<sup>392</sup> For elaborations on trademark registration challenged by public order and morality issues, see: Dinesh, T. (2016). You Can't Always Say What You Want, Can Freedom of Expression/Speech Co-exist with the Refusal to Register Trade Marks that are Offensive to Morality and Public Order? (master thesis) Gottfried Wilhelm Leibniz Universität Hannover University of Oslo Institute for Legal Informatics / Norwegian Research Center for Computers and Law.

<sup>393</sup> Decision O-137-06 in the Matter of Registered Trade Mark No. 2184549 in the Name of French Connection Limited and in the Matter of Application for a Declaration of Invalidity thereof , No. 81862 By Dennis Woodman , Available at: <https://www.ipo.gov.uk/t-challenge-decision-results/o13706.pdf>



considered the mark have judged it to be objectionable if used in ways that do not evoke the swear word.<sup>394</sup>

Hence, Woodman's appeal was dismissed, i.e. the FCUK trademark was upheld, as not contrary to the public order or morality.

#### **6.7.1.5.2. PAKI Logistics v OHIM (PAKI) (Case T-526/09; ECLI:EU: T: 2011:564)**

Another relevant case, in terms of public order (public policy) and morality is T-526/09; ECLI:EU:T:2011:564, in which the Court of Justice has reviewed the action submitted PAKI Logistics GmbH, brought against the decision of the First Board of Appeal of OHIM of 23 October 2009 (Case R 1805/2007-1),<sup>395</sup> concerning an application for registration of the word sign PAKI as a Community trade mark. Namely, on October 23, 2009, OHIM has rejected the trademark application "PAKI", since it considered that the application is contrary to the public order and morality in terms of article 7m paragraph 1 (f) of the Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark<sup>396</sup>. OHIM's position was that the term "paki" is perceived by the anglophone public in the European Union as a racist term, i.e. and disgracing and insulative appellation for the Pakistanis, or more general for a person originating from the Indian subcontinent living in the UK.

Specifically, in the details of the elaboration of the dismissal of the appeal, OHIM noted that:

*"By a decision of 18 October 2007 (hereinafter the 'contested decision'), the examiner refused the application for all goods and services, pursuant to Article 7(1)(f) CTMR and Article 7(2) CTMR. The examiner referred to the letter of notification of 1 December 2006 and argued in particular, as grounds:*

- In the English-speaking area, the term 'Paki' is a disparaging and pejorative designation for people of Pakistani origin (Collins Online Dictionary; www.wikipedia.org).*
- Even use of the term over a number of years cannot alter this.*
- For the ground of refusal under Article 7(1)(f) CTMR, it is sufficient for one of the meanings of the term in question to meet those requirements.*

---

<sup>394</sup> Ibid.

<sup>395</sup> Decision of the First Board of Appeal of 23 October 2009 In Case R 1805/2007-1. Available at: <https://euipo.europa.eu/eSearch/#details/trademarks/004790895>

<sup>396</sup> Official Journal of the European Union L 78/1, 24.3.2009.

- What are relevant are the English-speaking trade circles, because the term 'PAKI' is used in the English-speaking area.
- The definition of the term on Wikipedia clearly proves that 'PAKI' is an ethnic slur.
- Although the applicant's goods and services claimed produce no association with people originating from Pakistan, and there is thus no opportunity for its use as a disparaging designation, it is in fact sufficient that a person of Pakistani origin could be confronted with that trade mark.
- During the examination under Article 7(1)(f) CTMR, the Office undertook the necessary appreciation of the right of the public to be protected from disparaging designations and that of undertakings to use free terms as trade marks. It came to the conclusion that the term 'PAKI' is contrary to public policy or to accepted principles of morality."<sup>397</sup>

Also, the board of appeal of OHIM, referred to the results of a study by the BBC, the Advertising Standards Agency and others, in which:

*"60 % of the population of the United Kingdom perceived the term 'Paki' as offensive. Furthermore, according to that study, which was entitled 'Delete Expletives?', over half the population took the view that programs in which that term occurred should not be allowed to be broadcast. The Board of Appeal also referred to the media reaction to use of the term 'PAKI' as a nickname by a member of the British Royal Family. The opportunity to convert the Community trade mark application into national trade marks, pursuant to Article 112 et seq., was also identified. 9. By a letter of 14 August 2009, the applicant maintained its appeal, and again referred to the unobjectionable nature of use of the term, and challenged the significance, for the present case, of the study to which reference was made."*<sup>398</sup>

OHIM's Appeal Board has consequently noted that:

*"Therefore, the Community trade mark application is ineligible for registration under Article 7(1)(f) CTMR, because of its racist meaning in the United Kingdom and in Ireland."*<sup>399</sup>

The European Court of Justice has reaffirmed this position, rejecting the action of PAKI Logistics.<sup>400</sup>

---

<sup>397</sup> Decision of the First Board of Appeal of 23 October 2009 In Case R 1805/2007-1. Available at: <https://euipo.europa.eu/eSearch/#details/trademarks/004790895>

<sup>398</sup> Ibid.

<sup>399</sup> Ibid.

<sup>400</sup> Judgment of the General Court of 5 October 2011 - PAKI Logistics v OHIM (PAKI)

(Case T-526/09; ECLI:EU:T:2011:564), available at:

<http://curia.europa.eu/juris/document/document.jsf?docid=110405&mode=lst&pageIndex=1&dir=&occ=first&part=1&text=&doclang=FR&cid=51528>

### 6.7.1.5.3. Case R 137/2000-1 (Decision of the First Board of Appeal of 30 November 2000 relating to Community trade mark application No 811281)

The above case emerged from the application submitted by Glaverbel for products from the classes 11, 19 and 21.<sup>401</sup> The application contained a texture.<sup>402</sup>

The examiner considered the application ineligible for registration, since it was not distinctive, i.e. didn't comply the conditions in Article 7(1)(b) of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark ('CTMR') (OJ EC 1994 No L 11, p. 1; OJ OHIM 1/95, p. 52). The examiner considered the trademark application as a simple design devoid of distinctive character.

The counter arguments of the applicant were that:

*"– The mark applied for is not a simple design, such as a circle or square, which should be considered as devoid of distinctive character. It is, on the contrary, a complex pattern incorporating an impression of waves created by the interaction of its many different elements. It is not a mark that any honest trader might create inadvertently or independently without knowledge of Glaverbel's rights.*

*– A potential consumer looking to purchase, for example, a sheet of glass can distinguish between a glass sheet marked with the mark of the present application and an unmarked glass sheet or a glass sheet marked with a different legitimate mark. The mark applied for is clearly memorable and recognizable and in that sense cannot be said to be devoid of any distinctive character.*

*– The Benelux Trade Marks Office, which examines trade marks on substantially the same absolute grounds for refusal as the OHIM, has found the mark registrable.*

*– The distinctive character of the mark might be compared, for example, with that of CTM application no 610709, which is in fact visually less complex than the present design and which nevertheless has been accepted by the Office."<sup>403</sup>*

The applicant also noted that the trademark has an acquired distinctiveness, to which the examiner responded that:

*".. the documentary evidence filed showed that the design which constituted the mark was used as a decorative feature appearing on a kind of patterned glass marketed under the brand name CHINCHILLA. Therefore, it could easily be assumed that consumers buying products made of the patterned glass could in fact distinguish them from other*

---

<sup>401</sup> Community trade mark application No 811281, available at: <https://euipo.europa.eu/eSearch/#details/trademarks/000811281>

<sup>402</sup> The sign was evaluated by the respondents in our research (the TXTR variable, constructed having in mind this application, see: TM-1-test, 5.2.1.).

<sup>403</sup> Decision of the Board of Appeal (Case R0137/2000), paragraph 3, Available at: [https://euipo.europa.eu/eSearchCLW/#basic/\\*///number/R0137%2F2000-1](https://euipo.europa.eu/eSearchCLW/#basic/*///number/R0137%2F2000-1)

*manufacturer's products simply because of the presence of the word mark, and not by actually recognizing the pattern itself as being a distinctive sign. The examiner concluded that it could not be maintained that the sign had become distinctive in consequence of the use which had been made of it and that the application had to be rejected.*"<sup>404</sup>

Hence, the examiner has stayed on his position and the applicant filed an appeal claiming:

*"that the mark should be considered registrable under Article 7(3) CTMR, since the evidence submitted demonstrates the extensive use of the mark over a period of thirty years and shows that informed people in the trade recognize the mark, when used entirely on its own, as indicating the origin of the goods in question."*<sup>405</sup>

During the evaluation of the case, the Board of appeals among the other, has outlined the following findings:

*"In assessing the inherent distinctiveness of the mark applied for, its unusual nature has to be taken into account. The relevant consumers, who are as much the professionals of the building industry as the general public, are used to finding trade names, or verbal and figurative signs, when looking for an indication of the trade origin of glass products. To the knowledge of the Board, there is no tradition of using a particular shape, or other particular aspect of the glass product itself, to denote the identity of the trader. The shape, and the overall appearance of glass used for parts of a building, are predominantly determined by functional, and to some extent, general decorative criteria.*

*As a consequence, thereof, a particular pattern of glass will only be capable of functioning as an indication of trade origin, when it is not perceived, in the first place, as a functional, but rather as a fanciful, clearly recognizable element, capable of identifying the product and of distinguishing it from other products."*<sup>406</sup>

Also, the Board notes that:

*"In the present case, the particular pattern applied to the glass surface does not stand out as a primarily decorative feature, appended to the product to denote its identity or its origin. The design is rather perceived as one of the possible functional appearances of the type of glass, called patterned glass, which has undergone a so-called rolling process in order to make it opaque. The pattern is not in the first place recognizable as an individually stylized design, but rather appears as the direct result of a production process which makes it possible to produce a type of glass sheet which, because of its opaque character, guarantees, as stated in the commercial leaflet published by the appellant, 'privacy', without losing the qualities of 'light' and 'elegance'. The Board therefore considers that the examiner rightly concluded that the mark is not inherently capable of distinguishing the appellant's goods from those of other traders."*<sup>407</sup>

---

<sup>404</sup> Ibid, paragraph 6.

<sup>405</sup> Ibid, paragraph 9.

<sup>406</sup> Ibid, paragraph 15.

<sup>407</sup> Ibid, paragraph 16.

Although the applicant has submitted declarations of companies regarding the sales of products with the sign within the period from 1993 to 1997, stating the alleging on "the basis of their professional experience, their recognition of the distinctive character of the pattern in question", the Board has noted that:

*"It appears from the detailed figures concerning the quantities of the glass design traded, as indicated by the applicant, that its product has been sold in all the Member States, but not everywhere on the same scale. Where the sales figures seem important in Belgium, Germany and Italy, they seem rather low in other parts of the Community, in particular France, Spain, Ireland, Greece and Portugal. In the promotional leaflets, the French, English, German, Italian, Spanish and Dutch languages are used, but no information is available as to the scale on which these publications have been distributed. The signed declarations seem relevant, insofar as they emanate from experienced professionals, including some of the appellant's competitors. In the declarations, the authors state that they can immediately recognize the glass pattern represented on a photo shown to them as the appellant's CHINCHILLA glass. The statements cannot however be considered representative for the whole territory of the Community, since their authors are professionals of only three of the Member States, namely Belgium, The Netherlands and Germany. Although the Board does not consider that such evidence should necessarily cover every single Member State, the geographical scope of the declarations filed in the present case appears too narrow to evidence that the objection of inherent distinctiveness, which affects the whole territory of the Community, has been overcome."*<sup>408</sup>

In the final considerations contained in the rejection decision of the Board concluded that:

*"As the other evidence submitted does not seem conclusive either, the appellant's claim based on Article 7(3) CTMR has not been substantiated. Consequently, the appellant's claim is rejected."*<sup>409</sup>

After the Decision brought by the Board of Appeals, an action followed before the European Court of Justice (Case C-445/02 P; ECLI:EU:C:2004:393 (Glaverbel SA vs. OHIM)).<sup>410</sup> The Court of First Instance didn't accept Glaverbel's claim that the Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) has infringed Article 7(1)(b) of Regulation No 40/94, and thus rejected Glaverbel's plea.<sup>411</sup> Glaverbel's launched a complaint (an appeal) before the ECJ .The court in a second instance

---

<sup>408</sup> Ibid, paragraph 19.

<sup>409</sup> Ibidem.

<sup>410</sup> Case C-445/02 P; ECLI:EU:C:2004:393 (Glaverbel SA vs. OHIM , Available at: <http://curia.europa.eu/juris/document/document.jsf?jsessionid=9ea7d0f130de60ced839ad8e42108d0bc1eaba45961b.e34KaxiLc3eQc40LaxqMbN4Pb38Pe0?text=&docid=49440&pageIndex=0&doclang=en&mode=lst&dir=&occ=first&part=1&cid=120586>

<sup>411</sup> Ibid.

has dismissed the appeal and asserted the decision of the Court of First Instance, indicated that:<sup>412</sup>

*“It was in the light of those documents that the Court of First Instance, in paragraph 32 of the judgment under appeal:*

—  
*held that its finding that the sign lacked distinctive character was not affected by Glaverbel’s argument that the consumer is able to identify that sign because its goods have been on the market for a long time and that specialists cannot but recognise that goods bearing that sign originate from the applicant;*

—  
*and, moreover, stated that the argument in question was based on a test of distinctive character acquired through use and not the inherent distinctiveness of the design and that specialists, members of the building trade or glass industry, cannot be regarded as the only persons making up the target market for the goods in question.*

*In view of that reasoning, the content of the declarations and the status of those making them, it is apparent that, contrary to what Glaverbel claims, the Court of First Instance rejected the documents in question after examining them and not on the sole formal ground that they had been produced in support of an application for registration based on the acquisition of distinctiveness through use under Article 7(3) of Regulation No 40/94.*

*Accordingly, the complaint raised by Glaverbel is manifestly unfounded.*

*Even assuming that the part of the plea examined also comprises a complaint that the Court of First Instance wrongly failed to conclude from the content of the declarations produced that the persons making them confirmed that the design in question is inherently distinctive within the meaning of Article 7(1)(b) of Regulation No 40/94, it is sufficient to point out that such a complaint essentially calls into question an assessment of the facts and that, therefore, in the absence of any arguments showing that the clear sense of the evidence was distorted, it is manifestly inadmissible in an appeal procedure.*

*Accordingly, the fourth part of the plea must likewise be rejected.*

*In conclusion, since none of the four parts of the plea have been upheld, the appeal must be dismissed.”*

---

<sup>412</sup> Ibid, paragraphs 50-55.

### 6.7.1.6. Factor of Telecommunications Products (F6)

#### **Regression Analysis of the 6th Trademark Characteristics' Factor (F6) (Factor of Telecommunications Products) With the Cognitive and Conative Variables**

Table 41 loadings indicate that the regression Analysis of the 6th Trademark Characteristics' Factor (F6) (Factor of Telecommunications Products) showed no statistically significant influence of the cognitive and conative variable.

In this case, the Sig value of the multivariate level is 0,42. In accordance with that, the Sig values of each predictory variable are larger than 0.05. Hence, none of the variables can be utilized in estimation of the factor of telecommunications products.

Consequently, there is no necessity for further in-depth interpretation, neither in the entire system of variables, nor in the separate influence of each variable, which is a usual practice in the researches in which regression analysis is applied.

Table 41: Regression Analysis of the 6th Trademark Characteristics' Factor (F6) (Factor of Telecommunications Products) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-,068	-,067	-,073	,426
IT_2	-,015	-,015	-,017	,830
ALPHA-7	-,043	-,042	-,046	,549
EPSILON-1	,001	,001	,001	,993
ETA-2	-,065	-,064	-,095	,364
DELTA-1	,115	,113	,153	,108
HI-1	,037	,037	,054	,603
SIGMA-1	-,068	-,066	-,095	,346
ALPHA_1	-,063	-,061	-,100	,382

R	R Square	Sig.
,213a	,045	,421b

### 6.7.1.7. Factor of Stylized Letters(F7)

#### Regression Analysis of the 7th Trademark Characteristics' Factor (F7) (Factor of Stylized Letters) With the Cognitive and Conative Variables

The predatory influence of the entire system of cognitive and conative variables over the factor of stylized letters (F7) is not statistically significant at the level of 0, 05 (Sig. =0,158).

There is a separate statistically significant influence of ALPHA-7, represented in the table with statistically significant influence (Sig=0, 27) shouldn't be taken into account, due to the context of the absence of influence of the entire system over the factor.

The above situation proves that even though the factor of stylized letter clearly exists, it is very difficult to estimate the structure of this factor by exploiting the subjects' results in cognitive and conative space.

Table 42: Regression Analysis of the 7th Trademark Characteristics' Factor (F7) (Factor of Stylized Letters) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,006	,006	,007	,476 ,930
IT_2	,038	,037	,041	,598
ALPHA-7	,158	,155	,171	,027
EPSILON-1	-,096	-,093	-,110	,182
ETA-2	,039	,038	,056	,586
DELTA-1	-,075	-,072	-,098	,299
HI-1	-,004	-,003	-,005	,960
SIGMA-1	,042	,041	,058	,557
ALPHA_1	,012	,012	,019	,867

R	R Square	Sig.
,253a	,064	,158b



**6.7.1.7.1. Case R 566/2005-2 (Muswellbrook, Ltd. vs. Nike International, Ltd (Decision of the Board of Appeal relating to opposition proceedings No B 140 634 (Community trade mark application No 827 824)**

On 8 July 1996, Nike International Ltd., applied for a registration of the NIKE trademark certain goods and services listed in the following classes 9,14,18,25,28,42 of the Nice Classification. Flora Bertrand, predecessor of the trademarks owned by Muswellbrook Ltd., opposed the registration of the NIKE trademark application, since Ms. Bertrand owned a Spanish figurative mark No 88 222,<sup>413</sup> registered in 1932 for several goods from the class 25, extended in 1992 for footwear and sports shoes.

The Opposition Division refused the registration of the trade mark applied for in respect of the goods in class 25 with the following arguments:

*“ The validity of the earlier Spanish trade mark No 88 222 'NIKE' (figurative) must be made clear, in spite of the judgments submitted by the applicant from the Court of First Instance No 9 of Barcelona in the context of the application for revocation through lack of use brought by the now applicant, ratified by the Provincial Court of the same city, against which an appeal was lodged, resolved by judgment No 779/1999 of the Supreme Court of Spain, of 15 March 1999, of which this Office was made aware, and which definitively dismissed the aforesaid claim for revocation.”*

In December 1999, the applicant filed notice of appeal against the contested decision. In reviewing the case, the Board of Appeals has particularly noted the following aspects:

*"There is identity or similarity between the goods covered by the respective trade marks. Similarity also exists between the trade marks which have a phonetic and conceptual similarity as the authentic distinctive component is the word 'NIKE'. Spanish consumers will associate the origin of both trade marks owing to the presence of the word 'NIKE'. The graphic element of the opponent's trade mark represented with the statue of a Greek goddess named 'nike' accentuates the similarity between the two trade marks. The argument that the trade marks are phonetically distinct when the trade mark applied for is pronounced according to English pronunciation rules and the opposing trade mark is pronounced according to Spanish pronunciation rules is inadmissible. The notoriety of the trademarks of Nike International (for example, the 'swoosh' graphic) is an extraneous matter to these proceedings.”<sup>414</sup>*

---

<sup>413</sup> Case R 566/2005-2 (Muswellbrook, Ltd. vs. Nike International, Ltd ( Decision of the Board of Appeal relating to opposition proceedings No B 140 634 (Community trade mark application No 827 824). Available at: [https://euipo.europa.eu/eSearchCLW/#basic/\\*///name/Nike](https://euipo.europa.eu/eSearchCLW/#basic/*///name/Nike)

<sup>414</sup> Ibid paragraph 22.

However, one of the key findings of the Board was the priority of the Community Trademark Regulation:

*“As a preliminary point it must be made clear that when proof of use of an earlier national trade mark are furnished, the Office must examine them in the light of the rules of the Community Trade Mark Regulation and not in the light of the national rules and the case-law of the state in question. In this sense, national trade marks opposing a Community trade mark application are subject to the above-mentioned Regulation.”*<sup>415</sup>

Furthermore, it seems that the crucial point was the distinctive character of the NIKE trademark application, which is evident from the following wording used by the Board:

*” ...the trade mark must be used according to how it was registered, or in a way which differs in components that do not alter the distinctive character of the trade mark in the form in which it was registered. This requirement, which is set out in Article 15(2)(a) CTMR and which in turn is based on Article 5.C.2 of the Paris Convention, sets out, according to European doctrine and case-law, the possibility of altering the form of the trade mark in order to adjust it to new trends in the market. Thus, for the use to be considered effective it is essential that the alteration should not alter the components conforming the distinctive character of the registered trade mark.*<sup>416</sup>

On the issue of distinctiveness, the Board also outlined that the difference between the figurative trademark No 88 222 (owned by Ms. Bertrand and the NIKE trademark application (owned by Nike International Ltd), which in fact results with the consequence that the has not proved to be a proprietor of the word mark ‘Nike’:

*“Although it is true that a company can use various trade marks at the same time to distinguish its goods, it is also necessary for it to be the proprietor of these or be able to prove that it has authorization in the event that it is not the proprietor. In the present case the opponent has not proved that it is the proprietor of the word mark ‘NIKE’. Since the graphic component of the statue constitutes the essential and distinctive component of the trade mark, the massive use and in large letters of the single word ‘NIKE’ to identify the garments does not constitute an effective use of the trade mark No 88 222.”*<sup>417</sup>

Consequently, the Board held that:

---

<sup>415</sup> Ibid, paragraph 38.

<sup>416</sup> Ibid, paragraph 44.

<sup>417</sup> Ibid, paragraph 53.

*“With the above in mind, the opposition must be rejected pursuant to Article 43(2) CTMR and the decision of the Opposition Division must be annulled insofar as it decided that the opponent had proved the use of its trade mark and, therefore, has no power to decide on the other questions raised by the parties.”<sup>418</sup>*

#### **6.7.1.8. Factor of Descriptiveness (Ingredient or Quality) and Trade Dress Similarity (F8)**

##### **Regression Analysis of the 8th Trademark Characteristics’ Factor (F8) (Factor of Descriptiveness (Ingredient or Quality) and Trade Dress Similarity) With the Cognitive and Conative Variables**

It is visible from Table 43 dataset that there is an influence on multivariate level of the entire set of cognitive and conative variables on the 8th trademark characteristics primary factor (Factor of Descriptiveness (Ingredient or Quality) and Trade Dress Similarity (F8)). This influence is statistically significant on the level of 0,05 (Sig. 0,03).

This significance is evident in the value of coefficient of multiple correlation ( $R=0,30$ ), as well as from the value of the coefficient of determination ( $R\text{ Square}=0,09$ ).

The largest and sole contribution for the statistical significance at multivariate level is given by the ALPHA-7 variable (efficiency of the serial processor). The level of the estimation of the influence of ALPHA-7 is at the border line of 0,01.

Thus, the influence of the efficiency of the serial processor on the Factor of Descriptiveness (Ingredient or Quality) and Trade Dress Similarity is expressed by high percentage (99%). This influence is furthermore defined by the size of the Pearson’s correlation coefficient ( $R$ ), the partial coefficient (Part  $R$ ) and the Beta coefficient. The respective values are:  $R=0,20$ ; Part  $R=0,19$ ; and  $Beta=0,21$ . The size of the Beta coefficient is quite expressed,

It is therefore statistically and hypothetically justified to expect that the subjects (consumers) with high results in ALPHA-7, due to its predatory value, are also expected to accomplish higher results in the assessment of the descriptiveness (ingredient or quality) and trade dress similarity.

---

<sup>418</sup> Ibid, paragraph 56.

Table 43: Regression Analysis of the 8th Trademark Characteristics' Factor (F8)  
 (Factor of Descriptiveness (Ingredient or Quality) and Trade Dress Similarity)  
 With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,110	,106	,116	,123
IT_2	-,045	-,043	-,048	,530
<b>ALPHA-7</b>	<b>,199</b>	<b>,194</b>	<b>,214</b>	<b>,005</b>
EPSILON-1	-,011	-,010	-,012	,879
ETA-2	,004	,003	,005	,960
DELTA-1	,021	,020	,027	,767
HI-1	,096	,092	,135	,182
SIGMA-1	-,095	-,091	-,131	,184
ALPHA_1	-,012	-,011	-,018	,872

R	R Square	Sig.
,299a	,089	,030b

#### 6.7.1.8.1. Case R 1215/2000-3 – HYPERLITE (Applicant H.O. SPORTS, INC) <sup>419</sup>

In 1998, an application was submitted to the Office for Harmonization of the Internal Market (OHIM), for registration of the word mark HYPERLITE for classes 18, 25, 28. The decision of the examiner was that the “the mark applied for was not eligible for registration pursuant to Article 7(1)(b) and (c) of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (‘CTMR’) (OJ OHIM 1/1995, p. 53) to the extent that it consisted exclusively of the descriptive words ‘HYPER’ and ‘LITE’”, since “the mark ... has a meaning and does no more than describe significant and desirable characteristics of such goods,

---

<sup>419</sup> Decision of the Third Board of Appeal of 27 June 2001 – R 1215/2000-3 – HYPERLITE. Available at: [https://euipo.europa.eu/eSearchCLW/#basic/\\*///name/HYPERLITE](https://euipo.europa.eu/eSearchCLW/#basic/*///name/HYPERLITE)

that is to say that they are excessively light or lighter than the average equivalent products in the market, and in this case the weight of the goods is relevant to the purchaser.<sup>420</sup>

Among other arguments, the examiner also stated that:

*"... 'hyper' is generally used as a combining form which modifies an adjective and most English speakers usually take it to be synonymous with 'excessively' or 'too much' in certain instances. It means 'over, above, super, overmuch, excessively, extra, excessive in extent of quality'. The 'lite' is phonetically identical to 'light', meaning, among other, 'not heavy, weight relatively little'. Further, this very spelling, i.e. 'lite' is very commonly used by traders in all fields to mean 'light'. The simple merging of two words into a single word results in a term which is a recognized word. Thus, this merger is not sufficient to endow that name with a distinctive character..."*<sup>421</sup>

The applicant filed an appeal, arguing that:

*"HYPERLITE' is a fancy word, which does not exist in the English language and, as a consequence is liable to be considered original, not only in the English speaking States but also in those countries of the European Union where English is well known or is not the official language. 'HYPER' is generally used as a combining form which modifies an adjective and most English speakers usually take it to be synonymous of 'excessive' or 'too much' in certain instances, but this circumstance is not sufficient to infer that 'HYPERLITE', considered as a whole, could be seen to have a descriptive connotation. As a matter of fact, the combination with the English term 'LITE' (having various meanings, i.e. 'little', 'few', 'rely', 'trust', 'wait', 'mineral', 'rock', none of which makes a direct reference to the goods covered by the instant application), turns the whole expression into a fancy and original word, susceptible to several interpretations by the different consumers."*<sup>422</sup>

The applicant also elaborated that:

---

<sup>420</sup> Ibid, paragraph 3.

<sup>421</sup> Ibid, paragraph 4.

<sup>422</sup> Ibid, paragraph 9.

"... The application in suit has no specific meaning, because it does not exist in the English language. Phonetically, it could recall something 'not heavy', but also something 'not dark'. Therefore, the mark which is subject to various interpretations, is original and distinctive per se, and may be validly registered as a mark in the European Union...." <sup>423</sup>

The Board of Appeals, dismissed the appeal, mentioning among others the following arguments:

*"The two terms are so common in the current English language that they will be understood by everybody. This applies especially to the English-speaking area of the Community. The two elements are brought together to form a generally comprehensible combination. This formation of a concept is not unusual or striking, particularly since in English it is not uncommon for words to be combined with each other. The application may be a combination of terms which is not yet found in dictionaries, but its meaning is apparent at first glance, at least to members of the public in the Community who understand English. In that respect, grounds of non-registrability obtaining in only part of the Community pursuant to Article 7(2) CTMR stand in the way of registration of the trade mark in general. The fact that the word combination for which registration is sought is not currently listed in dictionaries, written as one word or two, does not affect this evaluation (see judgments of the Court of First Instance of 26 October 2000, in Cases T-345/99, Harbinger Corporation v OHIM, 'Trustedlink', paragraph 37; OJ OHIM 2/2001, p. 449, and T-360/99, Community Concepts AG v OHIM, 'Investorworld', paragraph 23, and of 12 January 2000, in Case T-19/99, Deutsche Krankenversicherung AG v OHIM, 'Companyline', paragraph 26; OJ OHIM 5/2000, p. 699)."*<sup>424</sup>

The board also found that:

*"For all the goods claimed, 'HYPERLITE', as a whole, is a recognisable and laudatory combination of a desirable quality of the goods claimed, namely that these products do not have a great weight, are therefore easy to use, to transport and to wear. This message of the sign is very clear, direct and immediately understandable by the daily consumer without remaining in any way vague, enigmatic, or merely veiled in allusive uncertainty."* <sup>425</sup>

---

<sup>423</sup> Ibidem.

<sup>424</sup> Ibid, paragraph 20-21.

<sup>425</sup> Ibid, paragraph 24.

### **6.7.1.9. 9th Trademark Characteristics' Factor (F9)**

#### **Regression Analysis of the 9th Trademark Characteristics' Factor With the Cognitive and Conative Variables**

Table 44 reports existence of statistical significance, i.e. there is a multivariate influence of the level of 0,05 of the entire set of predatory variables (Sig=0,05).

Although this level is on the borderline of statistical significance, one can assume that the influence is real, since the multiple correlation (R) has a considerable value (0,29). R Square (the coefficient of determination) on the other hand is not that evident, but it is still approaching those coefficients of determination that were significant in the preceding regression analysis. In this case R Square is 0,08, while in most previous cases were 0,09. In any case the system has a statistical significant influence.

The largest contribution of this multivariate level goes to the univariate influence of the variables IT-1 (efficiency of the perceptual processor); and SIGMA-1 (efficiency of the system of regulation and control the attack reaction). Sig of IT-1=0, 09 (with 99% probability, less than 1% error), while Sig of SIGMA-1=0,24 (less than 5% error in the assert for the influence of this variable).

The above statistically significant difference of IT-1 and SIGMA-1 also refer to their Pearson's coefficients (R) and partial correlation coefficients (Part R). R of IT-1=- 0,19, while R of SIGMA-1 is 0,16. Part R has values are with similar values: -0,18 (IT-1); and 0,16 (SIGMA-1). The associations are similar in both correlations, i.e. particularly the Pearson's correlations are not masque by the association of other manifest variables (cognitive abilities and conative features).

The comparison of the Beta coefficients between IT-1 and SIGMA-1 illustrates that SIGMA-1 has higher coefficients of influence (0,23); than in the case of IT-1 (-0,19). In view of that, the efficiency of the system of regulation and control the attack reaction as conative feature of the subjects (customers) has largest influence over their recognition of the 9th primary Trademark Characteristics' Factor (F9).

Table 44: Regression Analysis of the 9th Trademark Characteristics' Factor (F9)  
With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-,185	-,180	-,198	,789 ,009
IT_2	,023	,022	,024	,749
ALPHA-7	,008	,008	,009	,908
EPSILON-1	,049	,047	,056	,492
ETA-2	,030	,029	,042	,679
DELTA-1	-,032	-,030	-,041	,659
HI-1	-,035	-,034	-,049	,626
SIGMA-1	,162	,157	,225	,024
ALPHA_1	-,068	-,065	-,107	,344

R	R Square	Sig.
,288a	,083	,047b

#### 6.7.1.10. Color Trademark Factor (F10-F13)

##### **Regression Analysis of the Trademark Characteristics' Factors (F10-F13) (Color Trademark Factor) With the Cognitive and Conative Variables**

Tables 45, 46, 47 and 48 demonstrate that the regressive analysis didn't show neither multivariate, nor univariate influence of the entire set of cognitive and conative variables ( IT-1: efficiency of the perceptual processor; IT-2: efficiency of the parallel processor; ALPHA-7: efficiency of the serial processor; ALPHA-1: efficiency of the system of regulation and control of the personality defense functions; HI-1: efficiency of the system of regulation and control of the organic functions; SIGMA-1: efficiency of the system of regulation and control the attack reaction; DELTA-1, test for assessment of the homeostatic regulation system; ETA-2: system of integration of the regulation system; EPSILON-1: test for regulation of the excitatory and inhibitory process) on F10,F11, F12, 13.



A specific interpretation demonstrates that all Sig values of each separate variables from the cognitive and conative variables set are higher than 0, 05.

By respecting the above-mentioned principle, this statistically insignificant influence is not suitable for further in-depth explication, particularly since the aim of the research is to determine the relations in the context of influence of the cognitive and conative characteristics over trademark, and not to outline the variables with absence of influence.

The non-interpretation of the insignificant variables is also acceptable, considering that in stepwise regression analysis these variables are also dropped out in the data processing, for the reason that their interpretation is not important and not sufficiently rational.

The insignificance is logically followed by R, R Square and Beta, considering the fact that their values are extremely low.

Table 45: Regression Analysis of the 10th Trademark Characteristics' Factor (F10) (Color Trademark Factor) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,000	,000	,000	,078
IT_2	-,095	-,094	-,105	,184
ALPHA-7	-,108	-,107	-,118	,132
EPSILON-1	-,064	-,063	-,074	,376
ETA-2	,043	,042	,063	,548
DELTA-1	-,057	-,057	-,077	,424
HI-1	,002	,002	,002	,983
SIGMA-1	,034	,034	,048	,635
ALPHA_1	-,029	-,029	-,047	,686

R	R Square	Sig.
,180a	,032	,689b

Table 46: Regression Analysis of the 11th Trademark Characteristics' Factor(F11) (Copyright and Personality Rights Factor) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.040	-.039	-.043	,074 ,582
IT_2	-.068	-.066	-.074	,346
ALPHA-7	-.093	-.091	-.101	,194
EPSILON-1	,038	,037	,043	,602
ETA-2	-.046	-.045	-.067	,526
DELTA-1	-.065	-.064	-.087	,364
HI-1	-.013	-.013	-.019	,853
SIGMA-1	,048	,047	,067	,508
ALPHA_1	,018	,018	,029	,800

R	R Square	Sig.
,207a	,043	,474b

Table 47: Regression Analysis of the 12th Trademark Characteristics' Factor (F12) (Factor of Social Media Regulation) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,064	,062	,068	,134 ,373
IT_2	-.123	-.121	-.134	,086
ALPHA-7	,012	,011	,013	,871
EPSILON-1	-.077	-.075	-.089	,283
ETA-2	,033	,032	,048	,643
DELTA-1	-.054	-.053	-.071	,452
HI-1	-.017	-.017	-.025	,808
SIGMA-1	,078	,076	,109	,276
ALPHA_1	-.121	-.119	-.194	,091

R	R Square	Sig.
,236a	,056	,256b

Table 48: Regression Analysis of the 13th Trademark Characteristics' Factor (F13) (Factor of Religious Symbols and Geographical Indications) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.036	-.035	-.039	,614
IT_2	,135	,132	,147	,059
ALPHA-7	,107	,105	,116	,134
EPSILON-1	,124	,121	,143	,084
ETA-2	,038	,037	,054	,601
DELTA-1	-.004	-.004	-.005	,957
HI-1	,058	,057	,083	,416
SIGMA-1	-.009	-.009	-.013	,896
ALPHA_1	-.040	-.038	-.063	,582

R	R Square	Sig.
,241a	,058	,221b

#### 6.7.1.10.1. Heidelberger Bauchemie GmbH (C-49/02; ECLI:EU:C: 2004:384)

In this case, the German Federal Patents Court referred to the European Court of Justice for a preliminary ruling for two issues, i.e. for interpretation of Article 2 of the First Council Directive (89/104/EEC) of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1), raised in proceedings brought by Heidelberger Bauchemie GmbH (hereinafter ‘Heidelberger Bauchemie’) against the refusal by the German Patent Office to register the colours blue and yellow as a trade mark for certain products used in the building trade.<sup>426</sup>

Heidelberger Bauchemie submitted an application for the registration of the colours blue and yellow as a trade mark (presented on a rectangular piece of paper, the upper part of which was blue and the lower half yellow), with a description ‘The trade mark applied for consists of the applicant’s corporate colours which are used in every conceivable form, in particular on packaging and labels. The colors specified were RAL 5015/HKS 47 – blue; RAL 1016/HKS 3 – yellow.’<sup>427</sup> In September 1996, the Patent Office rejected that application arguing

<sup>426</sup> Judgment of the Court (Second Chamber) of 24 June 2004, paragraph 1 and 2. Available at: <http://curia.europa.eu/juris/liste.jsf?num=C-49/02>

<sup>427</sup> Ibid, paragraph 10.

that among other that “ the sign which it was sought to register was not capable of constituting a trade mark and was not capable of being represented graphically and, secondly, that the mark was devoid of any distinctive character”.<sup>428</sup>

Later, by decision of 2 May 2000, the Patent Office reviewed the position stating that “ colours are in principle able to constitute a trade mark but rejected the application on the ground of lack of any distinctive character”<sup>429</sup>.

Heidelberger Bauchemie appealed before the German Federal Patents Court, which addressed the ECJ for an opinion the following issue:

*‘Do colours or combinations of colours which are the subject of an application for registration as a trade mark, claimed in the abstract, without contours and in shades which are named in words by reference to a colour sample (colour specimen) and specified according to a recognised colour classification system, satisfy the conditions for capability of constituting a trade mark for the purposes of Article 2 of [the Directive]?’*

*In particular, for the purposes of Article 2 of the Directive, is such an “(abstract) colour mark”*

*(a) a sign,*

*(b) sufficiently distinctive to be capable of indicating origin,*

*(c) capable of being represented graphically?’*

*The key legal framework analyzed by the Court included:*<sup>430</sup>

For the purpose of the ruling, ECJ has analyzed the following legal framework: <sup>431</sup>

-Article 15(1) of the TRIPS Agreement:

*‘Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trade mark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colours as well as any combination of such signs, shall be eligible for registration as trade marks. Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible.’*

-First Council Directive (89/104/EEC) of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1)

*Article 2*

*‘A trade mark may consist of any sign capable of being represented graphically, particularly words, including personal names, designs, letters, numerals, the shape of goods*

---

<sup>428</sup> Ibid, paragraph 12.

<sup>429</sup> Ibidem.

<sup>430</sup> Ibid, paragraph 13-14.

<sup>431</sup> Ibid, paragraph 3-9.

*or of their packaging, provided that such signs are capable of distinguishing the goods or services of one undertaking from those of other undertakings.'*

*Article 3*

*'1. The following shall not be registered or if registered shall be liable to be declared invalid:*

*(a) signs which cannot constitute a trade mark;*

*(b) trade marks which are devoid of any distinctive character;*

*(c) 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, or the time of production of the goods or of rendering of the service, or other characteristics of the goods;*

*(d) trade marks which consist exclusively of signs or indications which have become customary in the current language or in the bona fide and established practices of the trade;*

*...*

*3. A trade mark shall not be refused registration or be declared invalid in accordance with paragraph 1(b), (c) or (d) if, before the date of application for registration and following the use which has been made of it, it has acquired a distinctive character. Any Member State may in addition provide that this provision shall also apply where the distinctive character was acquired after the date of application for registration or after the date of registration.*

*...'*

*-German Law on Trade Marks and other Distinctive Signs:*

*"The Gesetz über den Schutz von Marken und sonstigen Kennzeichen () of 25 October 1994 (BGBI. 1994 I, p. 3082) (hereinafter 'the Markengesetz'), contained in Article 1 of the Gesetz zur Reform des Markenrechts und zur Umsetzung der Ersten Richtlinien (Law to reform the Law of Trade Marks and implement the First Directive), which entered into force on 1 January 1995, is intended to transpose the Directive into German law.*

*Paragraph 3(1) of the Markengesetz states:*

*'Any sign, particularly words, including personal names, designs, letters, numerals, acoustic signs, three-dimensional forms including the shape of goods or their packaging as well as other get-ups including colours and combinations of colours, which is capable of distinguishing the goods or services of one undertaking from those of other undertakings may be protected as a trade mark.'*

*Paragraph 8 of the Markengesetz provides:*

*'1. Signs protectable as trade marks for the purposes of Paragraph 3 but not capable of being represented graphically shall not be eligible for registration.*

*2. Trade marks shall not be eligible for registration"*

After the analysis the ECJ adopted several key points relevant for trademarks consisting of color combinations:

*".....colours or combinations of colours which are the subject of an application for registration as a trade mark, claimed in the abstract, without contours, and in shades which are named in words by reference to a colour sample and specified according to an internationally recognised colour classification system may constitute a trade mark for the purposes of Article 2 of the Directive where:*

*–it has been established that, in the context in which they are used, those colours or combinations of colours in fact represent a sign, and*

*–the application for registration includes a systematic arrangement associating the colours concerned in a predetermined and uniform way.*

*Even if a combination of colours satisfies the requirements for constituting a trade mark for the purposes of Article 2 of the Directive, it is still necessary for the competent authority for registering trade marks to decide whether the combination claimed fulfils the other requirements laid down, particularly in Article 3 of the Directive, for registration as a trade mark in relation to the goods or services of the undertaking which has applied for its registration. Such an examination must take account of all the relevant circumstances of the case, including any use which has been made of the sign in respect of which trade mark registration is sought. That examination must also take account of the public interest in not unduly restricting the availability of colours for other traders who market goods or services of the same type as those in respect of which registration is sought.”<sup>432</sup>*

#### **6.7.1.11. Factor of Bad Faith Trademark Application (F14)**

##### **Regression Analysis of the 14th Trademark Characteristics’ Factor (F14)(Factor of Bad Faith Trademark Application) With the Cognitive and Conative Variables**

Table 49 loadings demonstrate that the predictory value of the entire set of variables, as well as of the part of the applied variables (EPSILON-1 and ETA-2) have statistically significant influence at the level of 0,01, which in the conventional methodological and statistical approaches is considered as the most severe level of influence (with probability of estimation of above 99%).

This is visible from the Sig coefficient of the multivariate level in the regression analysis, which reads 0,001. In accordance with this level the multiple correlation has more expressive value (R=0, 36). R Square (the coefficient of determination) is 0, 13.

In the contribution of the R and R Square correlations that represent the total valid variance of the system, there is participation of EPSILON-1 and ETA-2. This contribution for EPSILON-1 is indicated with the statistical Sig coefficient (0,018), while the participation of ETA-2 is Sig=0, 03 (which is high statistical significance).

The Pearson’s correlation coefficients (R), as well coefficients of partial correlation (Part-R) and the standardized partial regression coefficients (Beta) of these two predictory

---

<sup>432</sup> Ibid, paragraph 42.

variables differ in EPSILON-1 and ETA-2. The R coefficients values are: 0, 17 (EPSILON-1); -0, 21 (ETA-2). Part-R coefficients values are 0, 16 (EPSILON-1); -0, 20 (ETA-2).

This difference is also present particularly accented in the Beta coefficients: 0, 19 (EPSILON-1) and -0, 30 (ETA-2).

Having in mind the above aspects, it is reasonable to assert that two conative feature the subjects (consumers') are most influential on the factor of bad faith trademark application: the consumers' system of integration of the regulation system and regulation of the excitatory and inhibitory processes. At the same time, the regulation of the excitatory and inhibitory process has larger influence over the recognition of bad faith trademark application.

Table 49: Regression Analysis of the 14th Trademark Characteristics' Factor (F14) (Factor of Bad Faith Trademark Application) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,115	,108	,118	,110
IT_2	-,109	-,102	-,113	,129
ALPHA-7	-,075	-,070	-,078	,295
EPSILON-1	,169	,159	,189	,018
ETA-2	-,208	-,198	-,295	,003
DELTA-1	,097	,091	,123	,177
HI-1	-,068	-,064	-,094	,341
SIGMA-1	-,032	-,029	-,042	,660
ALPHA_1	,111	,105	,171	,120

R	R Square	Sig.
,360a	,130	,001b

### 6.7.1.11.1. Chocoladefabriken Lindt & Sprüngli AG v. Franz Hauswirth GmbH

(Case C-529/07; ECLI:EU:C: 2009:361)

In this case, regarding the criteria relevant to determining whether an applicant is ‘acting in bad faith’ when filing an application for a Community trade mark), the ECJ was addressed to deliver a preliminary ruling. Namely, Lindt & Sprüngli argued that there is was a likelihood of confusion for the consumer, since the chocolate bunnies made by Franz Hauswirth are alike the chocolate bunny protected by the three-dimensional Community trade mark owned by Lindt & Sprüngli<sup>433</sup>. Hence, the claimant asked for Franz Hauswirth to cease producing or marketing within the European Union. <sup>434</sup> The counter argument Hauswirth were that Lindt & Sprüngli was acting in bad faith when it filed its application for registration of the mark. <sup>435</sup>

It is interesting that the historical background of the case was characterized with the following elements:<sup>436</sup>

- *In both Austria and Germany chocolate bunnies, commonly called ‘Osterhasen’ (Easter bunnies), have been marketed since at least 1930 in various shapes and colours. The individual shapes of chocolate bunnies differed considerably when they were manufactured and wrapped by hand, but since the introduction of automated wrapping, industrially manufactured bunnies have become increasingly similar.*
- *Lindt & Sprüngli has since the early 1950s produced a chocolate bunny with a shape very like that protected by the three-dimensional mark at issue. Since 1994, Lindt & Sprüngli has marketed it in Austria.*
- *In 2000 Lindt & Sprüngli became proprietor of the three-dimensional mark at issue, representing a gold-coloured chocolate bunny, in a sitting position, wearing a red ribbon and a bell and with the words ‘Lindt GOLDHASE’ in brown lettering.*
- *That mark is registered for chocolate and chocolate products within Class 30 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended.*
- *Franz Hauswirth has marketed chocolate bunnies since 1962.*

*In the sense of the likelihood of confusion between the two chocolate bunnies, the questions arose that arose before the referring court were particularly due to the “...shape and colour the bunny produced and marketed by Franz Hauswirth is similar*

---

<sup>433</sup> Case C-529/07(ECLI:EU:C: 2009:361), Judgment of the Court (First Chamber) of 11 June 2009, paragraph 1.

<sup>434</sup> Ibidem.

<sup>435</sup> Ibid, paragraph 4.

<sup>436</sup> Ibid, paragraphs 9-14.



*to that which is protected by the three-dimensional mark at issue and because Franz Hauswirth affixes a label to the underside of the product.*"<sup>437</sup>

Having in mind the above Oberster Gerichtshof decided to stay the proceedings and to refer the following questions to the Court of Justice for a preliminary ruling:<sup>438</sup>

*'(1) Is Article 51(1)(b) of ... Regulation No 40/94 ... to be interpreted as meaning that an applicant for a Community trade mark is to be regarded as acting in bad faith where he knows, at the time of his application, that a competitor in (at least) one Member State is using the same sign, or one so similar as to be capable of being confused with it, for the same or similar goods or services, and he applies for the trade mark in order to be able to prevent that competitor from continuing to use the sign?*

*(2) If the first question is answered in the negative: Is the applicant to be regarded as acting in bad faith if he applies for the trade mark in order to be able to prevent a competitor from continuing to use the sign, where, at the time he files his application, he knows or must know that by using an identical or similar sign for the same goods or services, or goods or services which are so similar as to be capable of being confused, the competitor has already acquired a "valuable right" ("wertvollen Besitzstand")?*

*(3) If either the first or the second question is answered in the affirmative: Is bad faith excluded if the applicant's sign has already obtained a reputation with the public and is therefore protected under competition law?*"<sup>439</sup>

*In the answer to the above questions, the European Court of Justice (ECJ) ruled that for the purpose of defining bad faith, "...within the meaning of Article 51(1)(b) of Regulation No 40/94, the national court must take into consideration all the relevant factors specific to the particular case which pertained at the time of filing the application for registration of the sign as a Community trade mark, in particular:*

- the fact that the applicant knows or must know that a third party is using, in at least one Member State, an identical or similar sign for an identical or similar product capable of being confused with the sign for which registration is sought;*
- the applicant's intention to prevent that third party from continuing to use such a sign; and*
- the degree of legal protection enjoyed by the third party's sign and by the sign for which registration is sought."*<sup>440</sup>

---

<sup>437</sup> Ibid, paragraph 16.

<sup>438</sup> Ibid, paragraph 21.

<sup>439</sup> Ibidem.

<sup>440</sup> Ibid, paragraph 53.

### 6.7.1.12. Factor of Phonetical (Aural) Similarity(F15)

#### Regression Analysis of the 15th Trademark Characteristics' Factor (F15) (Factor of Phonetical (Aural) Similarity) With the Cognitive and Conative Variables

Table 50 loadings are relevant for the predictiveness of the entire multivariate set of variables, i.e. their statistically significant influence of the level of 0,05. The coefficient of the significance which also reads 0, 05, i.e. it overlaps with the border line value of the significance of the system influence expressed by 95% over the factor of phonetical (aural) similarity.

In this context, the multiple correlation of the variables' system (R) is quite notable and reads 0, 29. This statistically significant correlation has a reflection in the coefficient of determination R Square (0, 08, i.e. 8%).

The production of the multivariate level is mostly based on the univariate influence of the conative variable HI-1 (efficiency of the system of regulation and control of the organic functions). The influence of HI-1 is statistically significant at the level of 0, 01 (more severe level for estimation of its influence over the factor, i.e. probability of estimation of nearly 99%). Due to this influence of this variable over the factor has more expressed and almost identical coefficients of correlation and partial correlation (R=0, 21 and Part-R=0, 21). However, this partial influence of HI-1 more significantly is visible from value of the Beta coefficient (Beta=0, 31). In other words, 1/3 of the entire influence of all variables goes to HI-1.

Compared to the influences in the cases of the previous 14 trademark characteristics factors, the value of HI-1 is one of the highest in the partial influences of each conative and cognitive variable on the trademark characteristics factors.

Table 50: Regression Analysis of the 15th Trademark Characteristics' Factor (F15)

(Factor of Phonetical (Aural) Similarity) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,040	,039	,043	,820
IT_2	-,106	-,102	-,113	,141
ALPHA-7	-,127	-,123	-,136	,075
EPSILON-1	,069	,067	,079	,334
ETA-2	,032	,031	,046	,652
DELTA-1	-,025	-,024	-,033	,723
HI-1	,214	,210	,308	,003
SIGMA-1	-,085	-,082	-,118	,234
ALPHA_1	-,081	-,078	-,127	,261

R	R Square	Sig.
,285a	,081	,053b

**6.7.1.12.1. Phonetical Similarity Jurisprudence : Lloyd Schuhfabrik Meyer & Co. GmbH/Klijnsen Handel BV (Case C-342/97;ECLI:EU:C:1999:323)**

In this case, the Court decided on the request by the Landgericht München I (Germany) for a preliminary ruling in the proceedings pending before that court between Lloyd Schuhfabrik Meyer & Co. GmbH and Klijnsen Handel BV on the interpretation of Article 5(1)(b) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trademarks (OJ 1989 L 40, p. 1).

Lloyd has claimed that a trademark registered by Klijnsen Handel BV ('Loint's) is likely to be confused with' Lloyd trademark, since there is a phonetical (aural) similarity between the two marks, specially since they're used for same products, and having in mind the principally distinctive character of the Lloyd trademark. Another arguments presented by Lloyd were the long presence in the market and the high degree of recognition by consumers.

The counter arguments of Klijnsen included views that there is no similarity, especially since there is no evidence that Lloyd products are highly recognized by the consumers. Also, due to the circumstances that Klijnsen produces only one shoes, while Lloyd "has no appreciable activity on the leisure shoe market" and that "in the shoe sector, there is no likelihood of confusion with respect to sound, but only with respect to the graphic form of the mark".<sup>441</sup>

It is interesting that there was a survey conducted in November 1995, with the degree of recognition of the 'Lloyd's' mark of 36% of the total population aged 14 to 64. According to an inquiry carried out in April 1996, 10% of males aged 14 or over said 'Lloyd' in response to the question 'which brands of men's shoes do you know?'. However, having in mind that in another survey, 33 brands of shoes had a degree of recognition of over 20%, 13 a degree of recognition of 40% or more, and 6 a degree of recognition of 70% or more, the court doubted that a "an enhanced distinctive character, based on a degree of recognition of 36% in the

---

<sup>441</sup> Case C-342/97;ECLI:EU:C:1999:323.

relevant section of the public, can give rise to a likelihood of confusion, even if account is taken of the likelihood of association”.<sup>442</sup>

Consequently, the Landgericht München I requested answers to the following questions in the preliminary ruling of the Court of Justice:

*“ 1. Does it suffice, for there to be a likelihood of confusion because of similarity between the sign and the trade mark and identity of the goods or services covered by the sign and the mark, that the mark and the sign each consist of a single syllable only, are identical in sound both at the beginning and as regards the only combination of vowels and the — single — final consonant of the mark recurs in the sign in similar form ("t" instead of "d") in a consonant cluster of three consonants including "s"; specifically, do the designations "Lloyd" and "Loint's" for shoes conflict?*

*2. What is the significance in this connection of the wording of the Directive which provides that the likelihood of confusion includes the likelihood of association between the sign and the trade mark?*

*3. Must a special distinctive character, and hence an extended material scope of protection of a distinguishing sign, already be taken to exist where there is a degree of recognition of 10% in the relevant section of the public? Would that be the case with a degree of recognition of 36%? Would such an extension of the scope of protection lead to a different answer to Question 1, if that question were to be answered by the Court of Justice in the negative?*

*4. Is a trade mark to be taken to have an enhanced distinctive character simply because it has no descriptive elements?”<sup>443</sup>*

In the preliminary ruling, one of the key findings of the Court of Justice was that:

*“The more similar the goods or services covered and the more distinctive the earlier mark, the greater will be the likelihood of confusion. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, it is necessary to make a global assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish*

---

<sup>442</sup> Ibid.

<sup>443</sup> Ibidem.

*those goods or services from those of other undertakings. In making that assessment, account should be taken of all relevant factors and, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered. It is not possible to state in general terms, for example by referring to given percentages relating to the degree of recognition attained by the mark within the relevant section of the public, when a mark has a strong distinctive character”.*

Hence, the Court of Justice judged that:

*“It is possible that mere aural similarity between trade marks may create a likelihood of confusion within the meaning of Article 5(1)(b) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks. The more similar the goods or services covered and the more distinctive the earlier mark, the greater will be the likelihood of confusion. In determining the distinctive character of a mark and, accordingly, in assessing whether it is highly distinctive, it is necessary to make a global assessment of the greater or lesser capacity of the mark to identify the goods or services for which it has been registered as coming from a particular undertaking, and thus to distinguish those goods or services from those of other undertakings. In making that assessment, account should be taken of all relevant factors and, in particular, of the inherent characteristics of the mark, including the fact that it does or does not contain an element descriptive of the goods or services for which it has been registered. It is not possible to state in general terms, for example by referring to given percentages relating to the degree of recognition attained by the mark within the relevant section of the public, when a mark has a strong distinctive character.”*

#### **6.7.1.13. 16th-19th Trademark Characteristics’ Factor (F16, F17, F18, F19, F20)**

##### **Regression Analysis of the 16th-19th Trademark Characteristics’ Factor (F16, F17, F18, F19, F20) With the Cognitive and Conative Variables**

The loadings of the Tables 51, 52, 53, 54 and 55 show no statistical significance of the system of cognitive and conative variables over the factors: F16 (conceptual similarity factor), F17, F18 (the factor of Deceptiveness (Nature, Quality and Origin of Product)), F19 (the Factor of Description of Value, Purpose, Origin of Goods or Services) and F20 (Genericness Factor)

with the cognitive and conative variables. This influence is also absent at each variable over the 17th, 18th 19th and 20th factor.

Only in the case of the 16th factor (conceptual similarity) there is a numerical influence of the variable ETA-2 (: system of integration of the regulation system) and ALPHA-1 (efficiency of the system of regulation and control of the personality defense functions). However, although their coefficients of significance (Sig) show statistical significance, it can't be logically completely based. The Sig coefficients might be founded on the accidentalness of certain factors (the reactions of the subjects, the measurement conditions), so this remains in the framework of hypothetical influence.

Table 51: Regression Analysis of the 16th Trademark Characteristics' Factor (F16) (Conceptual Similarity Factor) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.044	-.042	-.046	,377
IT_2	,006	,005	,006	,937
ALPHA-7	-.082	-.080	-.088	,251
EPSILON-1	-.101	-.098	-.116	,158
ETA-2	-.154	-.151	-.225	,031
DELTA-1	,039	,038	,052	,583
HI-1	,022	,021	,031	,762
SIGMA-1	,001	,001	,001	,994
ALPHA_1	,178	,174	,285	,013

R	R Square	Sig.
,257a	,066	,141b

Table 52: Regression Analysis of the 17th Trademark Characteristics' Factor (F17) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,020	,019	,021	,636 ,785
IT_2	,017	,017	,018	,814
ALPHA-7	-,040	-,040	-,044	,573
EPSILON-1	,098	,096	,114	,172
ETA-2	-,070	-,068	-,102	,333
DELTA-1	,030	,029	,040	,677
HI-1	,002	,002	,003	,975
SIGMA-1	-,099	-,098	-,140	,167
ALPHA_1	,019	,019	,031	,790

R	R Square	Sig.
,196a	,038	,563b

Table 53: Regression Analysis of the 18th Trademark Characteristics' Factor (F18) (Factor of Deceptiveness (Nature, Quality and Origin of Product) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,003	,003	,004	,311 ,962
IT_2	-,032	-,031	-,035	,656
ALPHA-7	-,101	-,099	-,109	,160
EPSILON-1	-,012	-,012	-,014	,868
ETA-2	-,010	-,010	-,014	,890
DELTA-1	,080	,078	,106	,267
HI-1	,046	,045	,066	,522
SIGMA-1	-,047	-,046	-,066	,514
ALPHA_1	-,118	-,116	-,189	,101

R	R Square	Sig.
,217a	,047	,388b

Table 54: Regression Analysis of the 19th Trademark Characteristics'  
 Factor (F19) (Factor of Description of Value, Purpose, Origin of Goods or Services)  
 With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.019	-.019	-.021	,657 ,791
IT_2	-.049	-.048	-.053	,500
ALPHA-7	-.030	-.030	-.033	,672
EPSILON-1	-.032	-.032	-.037	,656
ETA-2	,093	,092	,138	,194
DELTA-1	-.007	-.007	-.010	,919
HI-1	,053	,053	,077	,457
SIGMA-1	-.068	-.068	-.097	,340
ALPHA_1	-.074	-.073	-.120	,301

R	R Square	Sig.
,165a	,027	,794b

Table 55: Regression Analysis of the 20th Trademark Characteristics'  
 Factor (F20) (Genericness Factor) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.017	-.016	-.018	,193 ,815
IT_2	,009	,009	,010	,902
ALPHA-7	-.125	-.123	-.136	,081
EPSILON-1	-.125	-.123	-.146	,081
ETA-2	,111	,109	,163	,121
DELTA-1	,030	,030	,040	,675
HI-1	-.084	-.083	-.122	,240
SIGMA-1	-.015	-.014	-.020	,839
ALPHA_1	-.014	-.014	-.023	,842

R	R Square	Sig.
,209a	,044	,452b



#### 6.7.1.14. Factor of Three-Dimensionality (F21)

#### Regression Analysis of the 21st Trademark Characteristics' Factor (F21) (Factor of Three-Dimensionality) With the Cognitive and Conative Variables

Table 56 loadings list show that the factor of three-dimensionality is determined by the influence of the entire system of cognitive and conative variables. The percentage of this influence is quite high (Sig=0, 01 i.e. the influence is at the level of 99%).

The multiple correlation also follows this influence (R=0, 33). The percentage of the entire system's influence is also favorable (R Square=0, 11 i.e.11%).

The univariate regression analysis contributes for the previously mentioned entire system predictory influence. Two variables specifically contribute in this direction one cognitive and conative.

The prognosis for recognition of this factor by the subjects (consumers) is statistically significant in the case of the cognitive test IT-1 at the level of 0,05, which is visible from the coefficient of significance (Sig =0,02). The Pearson's coefficient (R) and coefficient of partial correlation (Part-R) also have corresponding relations. Part R differs slightly from R. Part R is 0,16 while R is 0,17. A bit higher value from these coefficients is present at the partial regression (Beta value) which equals 0,018.

Out of the other variables with border line significance (0,057) is noted at EPSILON-1 (test for regulation of the excitatory and inhibitory processes). This significance cannot be interpreted with certainty, which is proven by the values of R (0,14), Part R (0,13) and Beta (0, 15).

Table 56: Regression Analysis of the 21st Trademark Characteristics' Factor (F21) (Factor of Three-Dimensionality) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,171	,164	,180	,017
IT_2	-,004	-,004	-,004	,955
ALPHA-7	-,122	-,116	-,128	,088
EPSILON-1	,136	,130	,154	,057
ETA-2	-,072	-,069	-,102	,314
DELTA-1	-,003	-,003	-,004	,965
HI-1	,096	,091	,133	,183
SIGMA-1	,081	,077	,111	,257
ALPHA_1	-,050	-,048	-,078	,483

R	R Square	Sig.
,325a	,105	,009b

#### 6.7.1.14.1. Unilever NV v. OHIM (Case T-194/01; ECLI:EU: T:2003:53),<sup>444</sup>

EUIPO practice and ECJ jurisprudence have noted the when it comes to three-dimensional trademarks. For instance, EUIPO guidelines indicate that:

*“In applying this uniform legal standard to different trademarks and categories of trade marks a distinction must be made in accordance with consumer perception and market conditions.”*<sup>445</sup>

as well as that:

*“For signs consisting of the shape of the goods themselves, no stricter criteria shall apply than for other marks, but it may be more difficult to come to a finding of distinctiveness, as such marks will not necessarily be perceived by the relevant public in the same way as a word or figurative mark (see judgment of 08/04/2002, C-136/02 P, ‘Maglite’, para. 30).”*<sup>446</sup>

A typical example is the case T-194/01, Unilever NV v. OHIM (Ovoid tablet case), in which the court decided over a claim against the Decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) .

Namely, in 1999, the applicant filed an application for registration of a three-dimensional trademark for class 3 products.<sup>447</sup> The examiner refused the application under Article 38 of Regulation No 40/94 due to lack of distinctiveness, in the context of Article 7(1)(b) of Regulation No 40/94.

---

<sup>444</sup> Case T-194/01 ( ECLI:EU:T:2003:53) , Judgment of the Court of First Instance (Second Chamber) of 5 March 2003. Available at: [https://euipo.europa.eu/eSearchCLW/#basic/\\*/number/194%2F01](https://euipo.europa.eu/eSearchCLW/#basic/*/number/194%2F01)

<sup>445</sup> EUIPO, Guidelines for Examination in the Office (VERSION 1.0 DATE 02/01/2014), Part B, Examination, Page 26.

<sup>446</sup> Ibidem.

<sup>447</sup> These products include: Detergents; preparations and substances for laundry use; fabric conditioning preparations; bleaching preparations; cleaning, polishing, scouring and abrasive preparations; preparations for dishwashing purposes; soaps; perfumery; essential oils; cosmetics; cosmetic creams; hair lotions; deodorants for personal use; alum stones; polishing stones; pumice stones; shaving stones; tripoli stones for polishing; bath salts; bleaching salts; anti-perspirants; dentifrices; make-up preparations; make-up removing preparations; toiletries.' (Case T-194/01 ( ECLI:EU:T:2003:53) , Paragraph 3.)

The applicant launched an appeal, after which the Board of Appeal

*“annulled the examiner's decision in so far as the examiner had refused the application in respect of the following products: 'perfumery, essential oils, cosmetic creams, hair lotions, deodorants for personal use, anti-perspirants, dentifrices'.* <sup>448</sup>

Also, the Board found that:

*“..the mark applied for was devoid of any distinctive character so far as detergent solids and related goods were concerned. Their regular ovoid shape of the mark applied for did not differ significantly from the discoid shape which the everyday soap or detergent traditionally came in, even though it was not strictly identical to it. The speckles on the tablet were also commonplace. Tablets, such as the applicant's, were a fundamental packaging concept for detergents and a wide range of similar goods. The tablet concerned had no arbitrary features capable of distinguishing it from other similar forms on the market”*<sup>449</sup>

After the decision of the Board, the applicant submitted an action to the court in August 2011. Asking from the court, either to *“alter the contested decision so as to provide that the trade mark applied for is eligible for registration; in the alternative, annul the contested decision.* <sup>450</sup>

Furthermore, it was interesting that:

*“At the hearing, the applicant stated that it wished to restrict the list of products in respect of which registration of the trade mark was sought so that thereafter its trade-mark application would concern solely dishwasher preparations. In response to a question from the Court, the applicant explained that that statement entailed its withdrawing its second plea in law alleging infringement of the obligation to state reasons as regards certain of the products in respect of which the Board of Appeal had upheld the examiner's decision and that it would thereafter confine itself to seeking annulment of the contested decision on the ground of breach of Article 7(1)(b) of Regulation No 40/94. In that regard, it requested that the distinctive character of the mark applied for should be assessed solely in relation to dishwasher preparations.”*<sup>451</sup>

Other arguments presented by the applicant included the following key points:

---

<sup>448</sup> Ibid, Paragraph 6.

<sup>449</sup> Ibid, paragraph 7.

<sup>450</sup> Ibid, paragraph 10.

<sup>451</sup> Ibid, paragraph 11.

*-The applicant points out that the shape at issue here is an irregular oval with flattened edges and large dark speckles, which resembles a pebble. European consumers are attentive to the shape and colours of washing tablets. The relevant public will certainly distinguish the 'pebble shape' from the round or rectangular shapes commonly used in the relevant market. The applicant draws attention to the fact that the shape is unique on the market and that no trader has used it for the products concerned. It states that there are only round or rectangular tablets on the market and produces examples to show that this is so. The large and perfectly visible speckles on the tablet at issue are different from the get-up of other wash tablets on the market, the speckles on the latter being much smaller and not discernible as such. In the applicant's submission, the Board of Appeal should have gathered evidence in order to prove that the shape in point was commonplace. In response to a question from the Court, the applicant stated that to date it has not itself placed on the market a dishwasher tablet with the shape of the mark applied for and is therefore unable to produce a three-dimensional example of the mark.<sup>452</sup>*

*In the contested decision, the Board of Appeal acknowledged that the shape applied for in this instance was an irregular oval which was not identical to the standard shape. The Board of Appeal wrongly imposed a requirement that the mark applied for should differ significantly from commonplace shapes and should have arbitrary features in order to be eligible for registration.<sup>453</sup>*

The office presented several counter arguments, in order to justify the decision. The arguments included Board's positions regarding the lack of distinctiveness, such as:

*As regards the second part of the plea, the Office contends that the applicant underestimates the importance of product names when the consumer makes a choice. It also criticises the applicant's market analysis on the ground that it takes account of neither the price nor the quality of the products. In the Office's contention, the fact that the tablets are usually depicted on the products' packaging does not mean that they have distinctive character. The applicant's assertion that consumers are in a position to distinguish different wash tablets by their shapes and colours and that they have been trained to do so is merely an assumption not supported by any evidence in respect of basic or standard shapes or any obvious variations of such shapes.<sup>454</sup>*

---

<sup>452</sup> Ibid, paragraph 26.

<sup>453</sup> Ibid Paragraph 27.

<sup>454</sup> Ibid, Paragraph 35.

Considering the positions of the parties, the Court has come to several findings. The crucial approach of the court is evident in several points.

The court has made a reference to the assessment of the perception by the general public, having in mind the previous jurisprudence, such as the LITE case.<sup>455</sup>

*“...a sign's distinctiveness can only be assessed, first, by reference to the goods or services in respect of which registration is sought and, second, on the basis of the perception of that sign by the relevant public (LITE, cited at paragraph 39 above, paragraph 27, and SAT.2, cited at paragraph 39 above, paragraph 37).<sup>456</sup>*

In this context, the court took into account “the presumed expectations of an average consumer who is reasonably well informed and reasonably observant and circumspect”:<sup>457</sup>

*The dishwasher tablets to which this action relates, like the other products within Class 3 of the Nice Agreement which were dealt with in the original trade mark application and the contested decision, are widely used consumer goods. The public concerned, in the case of these products, is all consumers. Therefore, in any assessment of the distinctive character of the mark applied for, account must be taken of the presumed expectations of an average consumer who is reasonably well informed and reasonably observant and circumspect (see, by analogy, Case C-210/96 Gut Springenheide and Tusky [1998] ECR I-4657, paragraphs 30 to 32). It should also be observed that the way in which the public concerned (in this case the average consumer) perceives a trade mark is influenced by its level of attention, which is likely to vary according to the category of goods or services in question (see Case C-342/97 Lloyd Schuhfabrik Meyer [1999] ECR I-3819, paragraph 26).<sup>458</sup>*

Another interesting reference in the judgment is derived from the relevance of the level of attention of the consumers, that according to the court's view should be demonstrated by the applicant:

*“In that regard, the Court cannot accept the applicant's argument that it is for the Office to demonstrate, on the basis of specific evidence, that consumers do not perceive the get-up of wash tablets as an indication of origin. The case is concerned with*

---

<sup>455</sup> Case T-79/00 Rewe-Zentral v OHIM (LITE) [2002] ECR II-705 (ECLI:EU:T:2002:42), paragraph 26. Available at: <http://curia.europa.eu/juris/liste.jsf?language=en&num=T-79/00>

<sup>456</sup> Case T-194/01 ( ECLI:EU:T:2003:53) , paragraph 40.

<sup>457</sup> Ibid, Paragraph 42.

<sup>458</sup> Ibidem.

*everyday consumer goods which are usually sold in packaging bearing the products' name and on which there are often word marks or figurative marks or other figurative features which may include a depiction of the product. It may, as a general rule, be inferred from experience that the average consumer's level of attention with regard to products marketed in this way is not high. In such circumstances, it is for the applicant for a trade mark to show that consumers' habits on the relevant market are different and the Office cannot be required to carry out an economic analysis of the market, let alone a consumer survey, to establish to what extent consumers pay attention to the get-up of a particular category of products. The applicant for such a mark is much better placed, given its thorough knowledge of the market (mentioned by the applicant itself), to provide specific and substantiated information on the matter.*"<sup>459</sup>

On the basis of the above and the other findings, the court dismissed the action, confirming the decision of the Board of Appeal, i.e. the Board's position that there was lack of distinctiveness in the case of the three-dimensional tablet mark.<sup>460</sup>

#### **6.7.1.15. 22nd, 23rd and 24th Trademark Characteristics' Factors (F22nd-24th)**

##### **Regression Analysis of the 22nd, 23rd and 24th Trademark Characteristics' Factors (F22nd-24th) With the Cognitive and Conative Variables**

The regression analysis on multivariate level presented at Tables 57, 58 and 59 showed that the predatory system don't have statistical significant influence for prognosis of the structure and nomination of the 22nd, 23rd and 24th Trademark Characteristics' Factors at the level of 0,05.

The prognosis of the univariate level of the applied cognitive and conative variables in none of the 3 cases is not statistically significant, so the Sig coefficients of the specific variables correspond to the Sig coefficient of the multivariate level.

---

<sup>459</sup> Ibid, Paragraph 48.

<sup>460</sup> As stated in the judgment "Consequently, the Board of Appeal was right in finding that the tablet's get-up was devoid of any distinctive character"(Ibid, paragraph 59).

Table 57: Regression Analysis of the 22st Trademark Characteristics’  
Factor (F22) (Factor of Identical or Similar Goods and Services)  
With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,007	,007	,008	,613
IT_2	,046	,045	,050	,523
ALPHA-7	,040	,040	,044	,573
EPSILON-1	-,013	-,013	-,015	,859
ETA-2	,078	,077	,115	,276
DELTA-1	,008	,008	,010	,915
HI-1	,046	,045	,067	,522
SIGMA-1	-,095	-,094	-,135	,186
ALPHA_1	-,075	-,074	-,121	,298

R	R Square	Sig.
,171a	,029	,755b

Table 58: Regression Analysis of the 23rd Trademark Characteristics’  
Factor (F23) (Public Order and Morality Factor)  
With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,031	,031	,034	,938
IT_2	,132	,131	,145	,065
ALPHA-7	-,056	-,055	-,061	,435
EPSILON-1	-,088	-,086	-,102	,222
ETA-2	,025	,025	,037	,723
DELTA-1	,025	,024	,033	,733
HI-1	-,081	-,080	-,117	,260
SIGMA-1	,025	,024	,035	,730
ALPHA_1	,034	,033	,054	,639

R	R Square	Sig.
,191a	,036	,603b

Table 59: Regression Analysis of the 24th Trademark Characteristics’

Factor (F24) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-,002	-,002	-,002	,249
IT_2	-,016	-,015	-,017	,827
ALPHA-7	,075	,074	,082	,295
EPSILON-1	-,013	-,013	-,016	,853
ETA-2	,010	,010	,015	,887
DELTA-1	,106	,105	,142	,138
HI-1	,058	,057	,083	,422
SIGMA-1	-,093	-,091	-,131	,197
ALPHA_1	-,045	-,044	-,072	,532

R	R Square	Sig.
,187a	,035	,637b

**6.7.1. 16. Factor of Description of Time of Production or Technical Characteristics of goods (F25)**

**Regression Analysis of the 25th Trademark Characteristics' Factor (F25) (Factor of Description of Time of Production or Technical Characteristics of goods) With the Cognitive and Conative Variables**

Table 60 demonstrates that the prognosis of nomination and structure of the recognition of the factor of time of production or technical characteristics of goods as a trademark characteristic on the basis of the entire system of cognitive and conative variables is statistically significant with probability of estimation of 95% (Sig=0,042). In favor of this claim is the multiple correlation of this recognition (R=0, 29), while R Square is 0, 09 (the prognosis is probable with 9%).

The separate influence of the manifest predictors treated is visible through the result of two conative tests: ETA-2 (system of integration of the regulation system) and ALPHA1 (eficiency of the system of regulation and control of the personality defense functions). The statistically significant influence of both variables is with the probability of estimation of 5%.

Furthermore, the relation of similarity between the two variables is expressed with the size of Pearson's correlation (R) and Partial correlation (Part R).



At the ETA-2 test, the values of both correlations are -0,15, while at ALPHA-7 the values are 0,16. Parallel to this the values of the partial regression coefficient (Beta) differ. Beta of ALPHA-1 is higher (0,26) than the one of ETA-2 (-0,21).

Table 60: Regression Analysis of the 25th Trademark Characteristics' Factor (F25) (Factor of Description of Time of Production or Technical Characteristics of goods) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.040	-.038	-.042	,227
IT_2	,028	,026	,029	,701
ALPHA-7	-.056	-.053	-.059	,437
EPSILON-1	,060	,058	,068	,404
ETA-2	-.145	-.140	-.209	,042
DELTA-1	-.087	-.084	-.113	,224
HI-1	-.092	-.088	-.129	,202
SIGMA-1	,125	,120	,172	,082
ALPHA_1	,163	,158	,258	,022

R	R Square	Sig.
,291a	,085	,042b

**6.7.1.16.1. Case R 1335/2006-2; FANTASIA/FANTASIA (Applicant: Disney Enterprises, Inc.)<sup>461</sup> (Registered form: Fantasia, Actual use: Fantasia 2000 )<sup>462</sup>**

In this case, Rossell's Fantasy Workshop S.L., the predecessor of Rossell Fantasy Works, S.L., launched an application for goods and services in the classes of 9,16, 38 and 41. Disney Enterprises, Inc. as opponent, launched a notice of opposition, on the grounds of earlier word mark "FANTASIA" (Spanish registration No 155 764), owned by Disney Enterprises Inc, registered on 26 March 1945 for 'a cinematographic film', as well as a sign "FANTASIA".

<sup>461</sup> Decision of the Second Board of Appeal of 11 February 2008, Available at: [https://euipo.europa.eu/eSearchCLW/#basic/\\*///number/1335%2F2006-2](https://euipo.europa.eu/eSearchCLW/#basic/*///number/1335%2F2006-2)

<sup>462</sup> EUIPO, Guidelines for Examination in the Office, Part C, Opposition Page 33

The opponent submitted proof to the Opposition Division that the disputed mark can't co-exist with its prior Spanish trade mark and its earlier unregistered sign used in the course of trade in Germany, since the consumers will think that the “ goods and services claimed to be protected under the contested mark formed part of the opponent's product range marketed under the same mark. In particular.<sup>463</sup>

The opponent particularly referred to the following arguments:<sup>464</sup>

– *There was a likelihood of confusion between the earlier Spanish trade mark and the contested mark, because the marks were identical, and the contested goods and services were partly identical and partly similar to ‘a cinematographic film’ covered by the earlier trade mark. – As for the earlier sign used in the course of trade in Germany, the opponent stated that the sign was the title of a film produced in the United States of America in 1940 and released in Germany in 1952. The re-edited version of the film was released on video cassette and DVD in Germany in February 2002. The opponent claimed that the sign enjoyed protection as a film title pursuant to Section 5 of the German Trade Marks Act. According to that provision, rights to a work title can be acquired by the mere presentation of the work and the protection extends not only to the work itself but all further goods which the proprietor usually puts on the market in connection with the merchandising of such work. 144.) and the decision of the Federal Court of Justice in ‘Guldenburg’ (GRUR 1993, p. 692f).*

– *The opponent claimed that this earlier right could be invoked under Article 8(4) CTMR, because work titles are protected as trade designations under German trade mark law and because it had used the sign in the whole of the Federal Republic of Germany which constituted use of more than mere local significance. Further, the earlier right conferred on it the right to prohibit the use of the contested mark in Germany pursuant Section 15(1) of the German Trade Marks Act, if there was a likelihood of confusion, moreover, even in connection with dissimilar goods and services, pursuant to Section 15(3), if the work title acquired a reputation and the registration of the later mark would take unfair advantage of the reputation of the work title. Since the contested mark was identical to the earlier film title and the claimed goods and services were identical, to a large extent, to ‘data carriers, in particular, movies, video films, DVDs, CDs, printed publications, broadcasting and related services, entertainment services’ covered by the protection of the film title, there was a likelihood of confusion.”<sup>465</sup>*

---

<sup>463</sup> Ibid, paragraph 7.

<sup>464</sup> Ibidem.

<sup>465</sup> Ibidem.

On 29 August 2006, the Opposition Division rejected the opposition<sup>466</sup>, among other, due to the following:

*“The earlier Spanish trade mark has been registered for more than five years at the date of publication of the contested mark. Pursuant to Article 43(2) and (3) CTMR, the opponent had to prove genuine use of its mark, in Spain, for all the goods for which it has been registered, during the five years preceding the publication of the contested mark, i.e., between 22 April 1998 and 21 April 2003.”*<sup>467</sup>

The opposition division also noted that:

*The article from Film Journal International, the licence agreement and the programme guide proves that a film entitled ‘Fantasia 2000’ was shown at least in one Spanish cinema in 2000. The additional number ‘2000’ does not alter the distinctiveness of the mark as registered because it may be seen by the public as the year of the re-launch of the original film ‘Fantasia’.*

*– However, there is very little evidence allowing the Office to establish the extent of use of the earlier mark for the goods at issue. As far as the invoices are concerned, firstly, it cannot be established with certainty what kind of goods were actually sold, cinematographic films, video tapes or DVDs. Secondly, the invoices show a mere 129 units sold. Otherwise, there are no documents from which the Office could even estimate the extent of use of the earlier mark, for instance, sales revenues generated by the film ‘Fantasia 2000’ in Spain. Although the certificate of the Spanish Institute of Cinematography and Audio-Visual Arts does indicate that the film has achieved a revenue of EUR 1 193 874.58 and a total amount of spectators of 311 841 up until 27 April 2005. However, as these figures also cover a period which extends beyond the relevant time period, they cannot be conclusive for the relevant time period.*

*– Having failed to prove the extent of use of the earlier mark, the opposition based on the earlier Spanish registration must be rejected.*<sup>468</sup>

Disney Inc. has launched an appeal, outlining several arguments, such as the importance of the submitted evidence which makes it clear that *“the re-edited film ‘Fantasia 2000’ was released in Spain in 2000 and the mark has been continuously used ever since. It is generally known fact that a film attracts most of the spectators within a short time period after the release of the film. It is clear that most of the 311 841 spectators saw the film within the relevant time period ending on 21 April 2003. Taking all the evidence into account, the opponent has proved*

---

<sup>466</sup> Opposition No B 627 960.

<sup>467</sup> Decision of the Second Board of Appeal of 11 February 2008, Paragraph 13.

<sup>468</sup> Ibidem.

sufficiently the genuine use of the earlier Spanish registration”<sup>469</sup> as well as that “the Office erroneously held that it could not be established from the evidence whether the film title had been used to a sufficient extent to acquire rights in the film title. Pursuant to German law, the right in a film title is acquired by the mere presentation of the film and there is no requirement to prove a specific (even minimal) extent of use”.<sup>470</sup>

After the review of the arguments of the parties, the Board concluded that:

*“It is clear from the evidence (in particular, from the Film Journal International article) that ‘Fantasia 2000’ is a new version of the original Walt Disney film ‘Fantasia’ produced in 1940, created in the spirit of the original: a sequence of animated scenes set to classical music. Hence, the number ‘2000’ is merely a reference to the new edition of the film and as such, it does not constitute an alteration which would preclude, in itself, that title from being taken into account as proof of use of the word ‘Fantasia’ protected by the earlier registration, in accordance with Article 15(2)(a) CTMR.”<sup>471</sup>*

This precedent is of importance for the EUIPO practice. As stated in the Guidelines for Examination:

*“Additions with generic or descriptive meaning Use of a registered word mark (or any other mark) together with a generic indication of the product or descriptive term will be considered as use of the registered mark. Additions which are just indications of characteristics of the goods and services, such as their kind, quality, quantity, intended purpose, value, geographical origin or the time of production of the goods or of rendering of the services, do not in general constitute use of a variant but use of the mark itself.”<sup>472</sup>*

---

<sup>469</sup> Ibid, paragraph 17.

<sup>470</sup> Ibidem.

<sup>471</sup> Ibid, paragraph 22.

<sup>472</sup> EUIPO, Guidelines for Examination in the Office, Part C, Opposition Page 33, Available at:

[https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document\\_library/contentPdfs/law\\_and\\_practice/trade\\_marks\\_practice\\_manual/WP\\_1\\_2017/Part-C/02-part\\_c\\_opposition\\_section\\_2/part\\_c\\_opposition\\_section\\_2\\_chapter\\_4\\_comparison\\_of\\_signs/TC/part\\_c\\_opposition\\_section\\_2\\_chapter\\_4\\_comparison\\_of\\_signs\\_tc\\_en.pdf](https://euiipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/law_and_practice/trade_marks_practice_manual/WP_1_2017/Part-C/02-part_c_opposition_section_2/part_c_opposition_section_2_chapter_4_comparison_of_signs/TC/part_c_opposition_section_2_chapter_4_comparison_of_signs_tc_en.pdf)

**6.7.1.17. Factor of Facebook User Regulations Awareness(F26)**

**Regression Analysis of the 26th Trademark Characteristics'**

**Factor (F26) (Factor of Facebook User Regulations Awareness)**

**With the Cognitive and Conative Variables**

It is visible from Table 61 that there is no predatory value of the entire system of cognitive and conative variables for prognosis of the recognition of the Factor of Facebook User Regulations Awareness, can be statistically determined with probability of estimation of above 95% (Sig=0,10).

This situation doesn't correspond with the Sig values which numerically demonstrate that there is statistically significant influence of the tats ETA-2 and HI-1 of the recognition of the Facebook User Regulations Awareness at the level of 0,05. There is no assurance for taking into account of this numerical aspect, since the entire set of variables lacks statistical significance regarding the factor.

Table 61: Regression Analysis of the 26th Trademark Characteristics'  
Factor (F26) (Factor of Facebook User Regulations Awareness)  
With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-,060	-,058	-,064	,303
IT_2	,065	,063	,070	,365
ALPHA-7	,009	,009	,010	,899
EPSILON-1	-,046	-,045	-,053	,520
ETA-2	,144	,141	,210	,043
DELTA-1	-,035	-,034	-,046	,622
HI-1	-,204	-,201	-,294	,004
SIGMA-1	,039	,037	,054	,589
ALPHA_1	-,011	-,011	-,018	,875

R	R Square	Sig.
,269a	,073	,095b

### 6.7.1.18. Factor of Frequency of Internet Search Engines Use and Cybersquatting (F27)

#### Regression Analysis of the 27th Trademark Characteristics' Factor (F27) (Factor of Frequency of Internet Search Engines Use and Cybersquatting) With the Cognitive and Conative Variables

Table 62 points out that the coefficient of statistically significant difference (Sig) is defined as borderline, since its numerical value is 0,05. Nonetheless, because of the high value of the multiple correlation coefficient (R=0, 30) and considering that two variables from the predatory system (DELTA-1 and IT-2) that are statistically significant, the borderline value of the statistical significance of multivariate level, one can state that the system of variables has influence over the Factor of Frequency of Internet Search Engines Use and Cybersquatting.

In the context, the multivariate level R square is above 8% as in most of the cases with statistical significance of the antecedent regression analyses presented.

The above described influence is also an output from the size of the Beta of DELTA-1 (Beta=0, 26) and of IT-2 (Beta=0, 16). Pearson's correlation coefficients (R) and coefficients of partial correlations at DELTA-1 have identical values (0, 19). Such similarity is noticed at IT-2 as well (both R and Part-R are 0, 15).

Accordingly, due to the difference in Beta, DELTA-1 (assessment of the homeostatic regulation system) has larger influence over the recognition (Factor of Frequency of Internet Search Engines Use and Cybersquatting).

Table 62: Regression Analysis of the 27th Trademark Characteristics' Factor (F27) (Factor of Frequency of Internet Search Engines Use and Cybersquatting) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,005	,005	,005	,947
IT_2	,150	,145	,161	,036
ALPHA-7	-,101	-,097	-,107	,158
EPSILON-1	-,121	-,117	-,138	,091
ETA-2	-,010	-,010	-,015	,887
DELTA-1	-,194	-,189	-,256	,007
HI-1	,070	,067	,099	,328
SIGMA-1	,044	,042	,061	,539
ALPHA_1	-,016	-,015	-,025	,827

R	R Square	Sig.
,289a	,084	,045b

### 6.7.1.19. Factor of Estimation of Product Quality (F28)

#### Regression Analysis of the 28th Trademark Characteristics' Factor (F28) (Factor of Estimation of Product Quality) With the Cognitive and Conative Variables

Having in mind the data loadings form Table 63, it is obvious there is no statistically significant of 0, 05 neither at multivariate nor at univariate level.

This aspect is also supplemented by the fact that values of Beta, R and Part-R which are also low at multivariate and univariate level.

Consequently, there is an absence of causality between the factor of estimation of product quality and the treated cognitive and conative variable.

Table 63: Regression Analysis of the 28th Trademark Characteristics' Factor (F28) (Factor of Estimation of Product Quality) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-,036	-,034	-,038	,122
IT_2	-,006	-,005	-,006	,938
ALPHA-7	,121	,117	,129	,092
EPSILON-1	-,113	-,109	-,129	,114
ETA-2	,015	,014	,021	,840
DELTA-1	,065	,062	,084	,366
HI-1	,005	,005	,007	,946
SIGMA-1	,060	,058	,083	,402
ALPHA_1	,029	,028	,045	,689

R	R Square	Sig.
,283a	,080	,058b

### **6.7.2. Regression analysis of the Trademark Characteristics Secondary Factors (S1-S11) with the Cognitive and Conative Variables**

Tables 64- 74 loadings represent regression analysis of the isolated level 2 trademark characteristics (secondary) factors. On the foundation of the datasets from these tables, considerations can be obtained regarding the influence of the cognitive abilities and conative characteristics of the consumers over the factors that define integrated characteristics of trademarks. This will be of crucial importance of the theoretical and practical needs in the context of wider sublimated definition of trademarks characteristics.

#### **Regression Analysis of the 1st Trademark Characteristics' Secondary Factor (S1) (copyright, personality rights and telecommunications factor) With the Cognitive and Conative Variables**

Table 64 demonstrates the predictive value of the psychological tests over the copyright, personality rights and telecommunications factor. This value, interpreted throughout the entire system of predictive variables is statistically significant at the level of 0, 05 (Sig.=0,12). This significance is notably elevated, which is evident from the value of multiple correlation ( $R=0,32$ ). Its square root follows the multiple correlations with 10% statistical influence over the copyright, personality rights and telecommunications factor ( $R^2=0,10$ ).

Although, the univariate influence dataset reads no statistically significant separate influences the cognitive and conative test, the previously mentioned multivariate influence is not disputable at all. On the contrary, the influence of the entire set of tests (multivariate influence) is significant, since it is in fact a common product derived from the contributions of the individual influences of the tests.



Table 64: Regression Analysis of the 1st Trademark Characteristics' Secondary Factor (S1) (copyright, personality rights and telecommunications factor) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,055	,052	,057	,447
IT-2	,076	,072	,080	,292
ALPHA-7	,133	,127	,140	,063
EPSILON-1	-,124	-,119	-,140	,083
ETA-2	-,002	-,001	-,002	,983
DELTA-1	,050	,047	,064	,488
HI-1	-,057	-,054	-,080	,426
SIGMA-1	,035	,033	,047	,628
ALPHA-1	,101	,096	,157	,159

R	R Square	Sig.
,319a	,102	,012b

**Regression Analysis of the 2nd Trademark Characteristics' Secondary Factor (S2) (factor of three dimensionality, identical or similar goods and services and public order and morality) With the Cognitive and Conative Variables**

The regression analysis of the factor of three dimensionality, identical or similar goods and services and public order and morality has statistically significant association. On a multivariate level, this significance is with probability of almost 99%, i.e. the value of Sig as the doorstep of significance of 0, 01. In favor of this is the considerably expressed multiple correlation ( $R=0,32$ ). The multivariate coefficient of determination is 0,10 (adequately to 10% of the association on a multivariate level).

The greatest contribution for the association is accomplished by the conative variables EPSILON-1 ( ) and ETA-2 ( ). The significance of EPSILON-1 is at the borderline of significance of 0,01, while of ETA-2 at the level of 0,05.

The coefficients of correlation (R) and partial correlation (Part- R) at the EPSILON-1 variable are higher ( $R=0,18$ ; Part  $R=0,18$ ) then in ETA-2 ( $R=-0,15$ ; Part

R=0,14). Both variables however have individual, specific significance. This is visible from the values of the Beta coefficients (the coefficients of partial regression): 0, 21 both at EPSILON-1 and ETA-2 (identical Beta coefficients).

Consequently, the consumers' systems of integration of the regulation system and regulation of the excitatory and inhibitory processes have equal influence over the factor of three dimensionality, identical or similar goods and services and public order and morality.

Table 65: Regression Analysis of the 2nd Trademark Characteristics' Secondary Factor (S2) (factor of three dimensionality, identical or similar goods and services and public order and morality) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
				,636
IT-1	,056	,053	,059	,434
IT-2	-,094	-,090	-,100	,189
ALPHA-7	-,044	-,042	-,046	,541
EPSILON-1	,182	,175	,207	,011
ETA-2	-,149	-,143	-,213	,037
DELTA-1	-,037	-,035	-,048	,605
HI-1	,061	,058	,085	,398
SIGMA-1	,086	,082	,117	,231
ALPHA-1	,060	,057	,094	,401

R	R Square	Sig.
,321a	,103	,011b

**Regression Analysis of the 3rd Trademark Characteristics' Secondary Factor (S3) (Factor of deceptiveness (nature, quality and origin) and descriptiveness (value, purpose and origin)) With the Cognitive and Conative Variables**

Table 66 provides evidence for the confirmation that the recognition of the factor of deceptiveness (nature, quality and origin) and descriptiveness (value, purpose and origin) (3rd Trademark Characteristics' Secondary Factor) (S3) cannot be statistically significantly estimated neither through the influence of the entire set of cognitive and conative variables, nor through the separate influence of each variable.

On a multivariate level, the lack of statistical significance is proven by the Sig coefficients', which reads 0,07. On the other hand, on a univariate level, there is only one

cognitive variable (ALPHA-7) has a statistically significant coefficient (Sig=0,04), but this significance is not taken into account from a methodological and statistical aspect, since its incidence is not justified.

Table 66: Regression Analysis of the 3rd Trademark Characteristics' Secondary Factor (S3) (Factor of deceptiveness (nature, quality and origin) and descriptiveness (value, purpose and origin)) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,048	,046	,051	,503
IT-2	-,072	-,070	-,077	,314
ALPHA-7	-,149	-,145	-,160	,037
EPSILON-1	-,109	-,105	-,125	,128
ETA-2	-,031	-,030	-,044	,668
DELTA-1	,033	,031	,042	,651
HI-1	,116	,113	,165	,104
SIGMA-1	-,047	-,045	-,064	,517
ALPHA-1	-,101	-,098	-,159	,159

R	R Square	Sig.
,276a	,076	,073b

### **Regression Analysis of the 4th Trademark Characteristics' Secondary Factor (S4) With the Cognitive and Conative Variables**

The prognosis of the 4th Trademark Characteristics' Secondary Factor (S4) based on the multivariate system of cognitive and conative variables is at the level of 0,05 (Sig=0,046).

This level, although at the borderline of significance can be interpreted, due to the level of the multiple correlation (0,29), especially since it's in favor with the research aim. The coefficient of determination is 0,08.

The significance derives from two variables from the system: the cognitive variable IT-2 (test for assessment of the efficiency of the parallel processor) (Sig=0,01) and the conative variable DELTA-1 (test for assessment of the homeostatic regulation system) (Sig=0,05). Hence, IT-2 has a clear, certain influence at the level of 0,05, while the influence of DELTA-1 is at the borderline of significance.

The Pearson's coefficient (R) of IT-2 is -0,18, while the partial correlation coefficient (Part-R) is -0,17. Both correlations are followed by the statistical significance of the coefficient of partial regression (Beta= 0,19).

DELTA-1 has lower correlations coefficients (R=0, 14; Part R=0, 13) but Beta is considerably expressed (0, 18), which means that the influence of DELTA-1 over S4 might be considered as statistically significant.

Accordingly, the efficiency of the parallel processor and the homeostatic regulation system of the consumers do influence the 4th trademark characteristics secondary factor S4.

Table 67: Regression Analysis of the 4th Trademark Characteristics' Secondary Factor (S4) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-,033	-,031	-,034	,941
IT-2	-,175	-,170	-,189	,014
ALPHA-7	-,008	-,007	-,008	,913
EPSILON-1	-,056	-,054	-,064	,434
ETA-2	,082	,079	,118	,252
DELTA-1	,139	,134	,182	,052
HI-1	-,023	-,022	-,033	,746
SIGMA-1	-,024	-,023	-,033	,736
ALPHA-1	-,054	-,052	-,085	,451

R	R Square	Sig.
,289a	,083	,046b

**Regression Analysis of the 5th Trademark Characteristics' Secondary Factors (S5, S6, S7) (Factor of Trademark Guarantee Function and Estimation of Product Quality; factor of visual and figurative similarity, descriptiveness (ingredient or quality) and trade dress similarity; and factor of distinctiveness of denominations and figurative signs and descriptiveness (time of production and technical characteristics) with participation of Facebook user regulations awareness)) With the Cognitive and Conative Variables**

The data loadings of the predictory system and of each separate variables of the show no statistically significant influence over the recognition of the following factors: Factor of Trademark Guarantee Function and Estimation of Product Quality –S5 (Table 68); factor of visual and figurative similarity, descriptiveness (ingredient or quality) and trade dress similarity-S6 (Table 69) ; and factor of distinctiveness of denominations and figurative signs and descriptiveness (time of production and technical characteristics) with participation of Facebook user regulations awareness S-7(Table 70).

The value of Sig for the S5 is 0, 14, for S6 is 0, 35 and for S7 is 0, 06.

Individual statistical significance influences of the conative HI-1 and SIGMA-1 (on a univariate level) are noted for the factor of distinctiveness of denominations and figurative

signs and descriptiveness (time of production and technical characteristics) with participation of Facebook user regulations awareness (S-7). However, the lack of multivariate influence Sig=0, 06), makes the individual influences of HI-1 and SIGMA-1 extraneous and thus inadequate for interpretation.

Table 68: Regression Analysis of the 5th Trademark Characteristics' Secondary Factor (S5) (Factor of Trademark Guarantee Function and Estimation of Product Quality) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.015	-.014	-.016	,017 ,839
IT-2	,025	,024	,027	,730
ALPHA-7	,052	,050	,055	,472
EPSILON-1	,018	,018	,021	,799
ETA-2	,013	,013	,019	,856
DELTA-1	,122	,119	,161	,088
HI-1	-.028	-.027	-.040	,692
SIGMA-1	,101	,098	,140	,160
ALPHA-1	-.012	-.012	-.019	,868

R	R Square	Sig.
,257a	,066	,140b

Table 69: Regression Analysis of the 6th Trademark Characteristics' Secondary Factor (S6) (factor of visual and figurative similarity, descriptiveness (ingredient or quality) and trade dress similarity) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.114	-.111	-.122	,816 ,113
IT-2	,113	,111	,124	,114
ALPHA-7	-.115	-.113	-.124	,110
EPSILON-1	,000	,000	,000	,999
ETA-2	-.022	-.021	-.032	,762
DELTA-1	,033	,032	,044	,646
HI-1	-.039	-.038	-.056	,584
SIGMA-1	,035	,034	,048	,630
ALPHA-1	,076	,075	,122	,288

R	R Square	Sig.
,223a	,050	,346b

Table 70: Regression Analysis of the 7th Trademark Characteristics' Secondary Factor (S7) (factor of distinctiveness of denominations and figurative signs and descriptiveness (time of production and technical characteristics) with participation of Facebook user regulations awareness) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
				,885
IT-1	-,014	-,014	-,015	,845
IT-2	,092	,088	,098	,202
ALPHA-7	,093	,090	,099	,195
EPSILON-1	-,129	-,124	-,147	,073
ETA-2	,068	,065	,097	,347
DELTA-1	-,079	-,076	-,103	,271
HI-1	-,147	-,142	-,209	,040
SIGMA-1	,141	,137	,196	,048
ALPHA-1	,026	,025	,042	,713

R	R Square	Sig.
,282a	,079	,060b

**Regression Analysis of the 8th Trademark Characteristics' Secondary Factor (S8) (factor of bad faith trademark application and conceptual similarity) With the Cognitive and Conative Variables**

Table 71 shows that the prognosis of the factor of bad faith trademark application and conceptual similarity (S8) in higher degree can be statistically significant determined with the influence of the entire set of cognitive and conative variables (on multivariate level) and specifically with the univariate influence of two variables, i.e. one cognitive- efficiency of the serial processor (ALPHA-7) and one conative- regulation of the excitatory and inhibitory processes (EPSILON-1).

The multivariate influence of the set of variables is proven to be statistically significant with probability of 99%, i.e. the error of assessment is less than 1%. This is also confirmed by the coefficient of statistical significance (Sig=0,000).

The noticeable high multiple correlation of the set of variables with the criterion variable (S8) also corresponds to this significance (R=0, 44). Furthermore, the coefficient of determination (R Square) is expressive, with value of 0, 19 (above 20%), which in the context of the number of the applied predictory variables can be considered as significantly expressed influence.

In this context is the significance of ALPHA-7 and EPSILON-1 on a univariate level, visible from their Sig coefficients, which are both statistically significant at the level of 0, 01. Sig of ALPHA-7 is 0,001; while of EPSILON-1 is 0,006. In accordance with this univariate level significance are the values of the coefficients of Pearson's' (R) and partial (Part R) correlations. In the case of ALPHA-7, R is -0, 24, while Part R is -0, 22. EPSILON-1 has lower, but still considerably expressed coefficients (R= 0, 20; Part R=0, 18).

Concerning the partial regression coefficients (Beta), they are in the same direction and participate with high contribution in the mentioned high multivariate statistical significance of the influence of ALPHA-7 and EPSILON-1 on S8. The values of Beta are: 0,21 for EPSILON-1 and -0,24 for ALPHA-7.

Table 71: Regression Analysis of the 8th Trademark Characteristics' Secondary Factor (S8) (factor of bad faith trademark application and conceptual similarity) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,088	,080	,087	,042 ,219
IT-2	-,082	-,074	-,083	,251
ALPHA-7	-,237	-,219	-,242	,001
EPSILON-1	,198	,181	,214	,006
ETA-2	-,080	-,072	-,108	,264
DELTA-1	-,045	-,040	-,054	,535
HI-1	-,076	-,069	-,101	,289
SIGMA-1	,038	,034	,049	,597
ALPHA-1	,020	,018	,029	,780

R	R Square	Sig.
,439a	,193	,000b

**Regression Analysis of the 9th, 10th and 11th Trademark Characteristics' Secondary Factors (S9, S10, S11) With the Cognitive and Conative Variables**

The last three tables (Tables 72, 73 and 74) point out that there is no statistical significance at the level of 0,05 of the entire applied system of cognitive and conative variables over the factors: factor of phonetically (aural) similarity and the 9th primary factor (S9); color trademark factor (S10) and the factor of genericness with participation of F17) (S11).

On a multivariate level, the coefficients of statistical significance (Sig) regarding the appropriate factors are: 0,09 (S9); 0,72 (S10); 0,65 (S11).

On a univariate level, for S9 and S11, there is one variable for each secondary factor that has statistical significance at the level of 0, 05: EPSILON-1 for S9 (Sig=0,03) and ALPHA-7 for S11 (Sig=0,04). While none of the variables has statistical significance for S10. As mentioned in numerous cases above, the influence of these variables is only hypothetical and can't be confirmed from methodological and statistical aspect. In other words, the influence of the regulation of the excitatory and inhibitory processes over the factor of phonetically (aural) similarity is not certain. Same refers to the influence of the efficiency of the serial processor over the factor of genericness (with participation of F17).

Table 72: Regression Analysis of the 9th Trademark Characteristics' Secondary Factor (S9) (factor of phonetically (aural) similarity and the 9th primary factor) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,121	,117	,129	,870 ,091
IT-2	-,048	-,046	-,051	,505
ALPHA-7	-,019	-,019	-,021	,788
EPSILON-1	-,153	-,149	-,176	,033
ETA-2	,039	,037	,056	,590
DELTA-1	-,066	-,064	-,087	,355
HI-1	,114	,110	,162	,111
SIGMA-1	-,027	-,026	-,037	,707
ALPHA-1	-,019	-,018	-,030	,793

R	R Square	Sig.
,272a	,074	,086b



Table 73: Regression Analysis of the 10th Trademark Characteristics' Secondary Factor (S10) (color trademark factor) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.039	-.039	-.043	,236 ,583
IT-2	-.005	-.005	-.005	,945
ALPHA-7	-.096	-.095	-.105	,180
EPSILON-1	-.023	-.023	-.027	,748
ETA-2	-.034	-.033	-.050	,639
DELTA-1	-.049	-.048	-.065	,494
HI-1	-.056	-.055	-.081	,438
SIGMA-1	,092	,091	,130	,201
ALPHA-1	,076	,075	,122	,292

R	R Square	Sig.
,176a	,031	,720b

Table 74: Regression Analysis of the 11th Trademark Characteristics' Secondary Factor (S11) (factor of genericness with participation of F17) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	-.017	-.017	-.018	,116 ,814
IT-2	-.001	-.001	-.001	,985
ALPHA-7	-.145	-.144	-.159	,043
EPSILON-1	-.035	-.034	-.040	,630
ETA-2	-.027	-.027	-.040	,706
DELTA-1	,039	,038	,052	,588
HI-1	-.028	-.028	-.041	,693
SIGMA-1	-.053	-.052	-.075	,458
ALPHA-1	,038	,038	,062	,593

R	R Square	Sig.
,186a	,034	,645b

### 6.7.3. Regression Analysis of the Trademark Characteristics Tertiary Factors (T1-T4) with the Cognitive and Conative Variables

#### Regression Analysis of the 1st and 2nd Trademark Characteristics' Tertiary Factors (T1 & T2) With the Cognitive and Conative Variables

Tables 75 and 76 list the estimation for prognosis of the 1st and the 2nd trademark characteristics tertiary factors are statistically significant. For T1 the statistical significance is 0, 01 while for T2 it is 0, 05.

The multiple correlation for the entire system for T1 is quite expressive, i.e. its value is 0, 40. The efficient of determination is 16%. In the statistical significance of the entire set of variables, the greatest contribution is given by the conative test EPSILON-1 (regulation of the excitatory and inhibitory processes) (Sig=0,001), as well as by ALPHA-7 (efficiency of the serial processor) (Sig=0,046). Both variables have also notable partial regression coefficients. Apparently, the EPSILON-1 coefficient is higher (Beta=-0,27). Furthermore, in both variables Pearson's coefficients and partial coefficients have similar values.

**Consequently, the recognition of the trademark characteristics integrated into T1 (copyright, personality rights and telecommunications factor (S1); factor of deceptiveness (nature, quality and origin) and descriptiveness (value, purpose and origin) (S3); factor of trademark guarantee function and estimation of product quality (S5); and the factor of bad faith trademark application and conceptual similarity (S8) are influenced by the consumers' conative variable of regulation of the excitatory and inhibitory processes, as well as by the consumer's cognitive variable of efficiency of the serial processor.**

Table 75: Regression Analysis of the 1st Trademark Characteristics' Tertiary Factor (T1) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
				,159
IT-1	,002	,002	,002	,976
IT-2	,088	,081	,090	,218
ALPHA-7	,143	,132	,146	,046
EPSILON-1	-,242	-,228	-,270	,001
ETA-2	,062	,057	,085	,386
DELTA-1	,068	,062	,084	,345
HI-1	,044	,040	,059	,543
SIGMA-1	-,004	-,003	-,005	,961
ALPHA-1	-,041	-,038	-,062	,567

R	R Square	Sig.
,398a	,158	,000b

The statistical significance at the influence of the 2nd factor (T2) is followed by the value of the multiple correlation of 0,31, while the coefficients of determination is lower and reads 0,10.

These two coefficients are mostly a result of the influence of the cognitive tests IT-2 (efficiency of the parallel processor) and ALPHA-7 (efficiency of the serial processor;). The probability of estimation of the influence is higher than 95%.

The Pearson's correlation, the partial correlation and the Beta coefficient for these two tests have similar values. For IT-2 these values are: R=-0,16; Part R=-0,15 & Beta= -0,17. For ALPHA7 the respective values are R=-0,15; Part R=-0,14 & Beta= -0,16.

Accordingly, the **definition of the trademark characteristics integrated into T2 visual and figurative similarity, descriptiveness (ingredients and quality), trade dress similarity and genericness are under equal influence of two cognitive variables of consumers: efficiency of the parallel processor and efficiency of the serial processor.**

Table 76: Regression Analysis of the 2nd Trademark Characteristics' Tertiary Factor (T2) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,066	,063	,069	,357
IT-2	-,155	-,149	-,165	,030
ALPHA-7	-,150	-,144	-,159	,036
EPSILON-1	,079	,075	,089	,273
ETA-2	-,059	-,056	-,084	,409
DELTA-1	,023	,022	,030	,748
HI-1	,084	,080	,117	,244
SIGMA-1	-,061	-,058	-,083	,396
ALPHA-1	-,071	-,068	-,111	,321

R	R Square	Sig.
,311a	,097	,017b

### **Regression Analysis of the 3rd Trademark Characteristics' Tertiary Factor (T3) With the Cognitive and Conative Variables**

The predatory value of the system of the cognitive and conative tests treated lacks statistical significance over the recognition of the 3rd trademark characteristics' Tertiary Factor (T3).

This is visible for the Sig value on a multivariate level, which reads 0,27, i.e. it is not statistically significant at the level of 0,05.

Accidental significance at a univariate level is noted at the SIGMA-1 (efficiency of the system of regulation and control the attack reaction), which is not relevant for interpretation.

Table 77: Regression Analysis of the 3rd Trademark Characteristics' Tertiary Factor (T3) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
				,987
IT-1	,022	,022	,024	,755
IT-2	,038	,037	,041	,600
ALPHA-7	,027	,026	,029	,710
EPSILON-1	-,028	-,028	-,033	,692
ETA-2	-,057	-,056	-,083	,423
DELTA-1	-,116	-,114	-,154	,104
HI-1	-,055	-,054	-,079	,442
SIGMA-1	,151	,148	,212	,035
ALPHA-1	,115	,112	,184	,109

R	R Square	Sig.
,233a	,054	,273b

**Regression Analysis of the 4th Trademark Characteristics' Tertiary Factor (factor of phonetical (aural) similarity) (T4) With the Cognitive and Conative Variables**

Table 78 data loadings report that the recognition of the 4th trademark characteristics tertiary factor (T4) on a multivariate level is based on the statistical significance that is determined by the value of Sig coefficient (0,002). The multiple correlation of this significance is pretty expressed (R=0, 35). The coefficient of determination is 0, 12.

The major contribution for the statistical significance on a multivariate level is provided by the conative variable EPSILON-1 (regulation of the excitatory and inhibitory processes). Its Sig coefficient is 0,002. The coefficient of correlation for EPSILON-1 (R), the partial correlation (Part-R) and the coefficient of partial regression (Beta) have values of higher numbers than -0,21. Beta is -0,25.

**Consequently, it appears that the recognition of phonetical (aural) similarity as a trademark characteristic is mostly influenced by the variable of regulation of the excitatory and inhibitory processes of the consumers.**

Table 78: Regression Analysis of the 4th Trademark Characteristics' Tertiary Factor (T4) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
				,852
IT-1	,077	,073	,080	,281
IT-2	-,102	-,096	-,107	,154
ALPHA-7	,053	,050	,055	,460
EPSILON-1	-,219	-,210	-,249	,002
ETA-2	,133	,125	,187	,064
DELTA-1	,007	,006	,009	,925
HI-1	,010	,010	,014	,885
SIGMA-1	-,028	-,026	-,037	,698
ALPHA-1	-,055	-,052	-,085	,442

R	R Square	Sig.
,349a	,122	,002b

#### 6.7.4. Regression analysis of the Trademark Characteristics Quaternary Factors (Q1-Q2) with the Cognitive and Conative Variables

The regression analysis on a multivariate level points out a statistically significant influence over the 1st and 2nd trademark characteristics quaternary factors (Q1 and Q2). However, this influence over the 1st quaternary factor is statistically significant on the level of 0,05, while the influence over the 2nd quaternary factor is on the level of 0,01.

Analogously to the influences are the coefficients of multiple correlation at the 2nd factor is higher (0,35), while at the 1st factor is 0,30. The coefficient of determination is corresponding to these values: R-Square in the case of Q2 is 0,12, and lower in the case of Q1 (R=0,92).

On a univariate level, for each of the two respective factors, there is a statistically significance influence of the conative test EPSILON-1 only. In this case, the influence of EPSILON-1 on the 2nd factor is at the level of 0,01, and on the 1st factor of 0,05. Hence, the probability of the EPSILON-1 test for estimation of the Q2 factor is higher (above 95%). In other words, the contribution of EPSILON-1 is larger at Q2.

This contribution of EPSILON-1 is also proven on a univariate level from the regression analysis both for Q1 and Q2, which show that the Pearson's correlation (R), the partial correlation (Part-R) and the standardized partial regression (Beta), are higher at Q2.

The above aspects are an additional proof that the structure of the two quaternary trademark characteristics factors is dissimilar and they can be therefore differently nominated and deciphered.

Table 79: Regression Analysis of the 1st Trademark Characteristics' Quaternary Factor (Q1) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,002	,002	,003	,972
IT-2	,048	,045	,050	,508
ALPHA-7	,121	,117	,129	,090
EPSILON-1	-,152	-,146	-,173	,034
ETA-2	,095	,091	,135	,186
DELTA-1	-,050	-,048	-,065	,485
HI-1	-,073	-,070	-,102	,311
SIGMA-1	,064	,061	,087	,376
ALPHA-1	,052	,050	,082	,467

R	R Square	Sig.
,303a	,092	,025b

Table 80: Regression Analysis of the 2nd Trademark Characteristics' Quaternary Factor (Q2) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,019	,018	,020	,789
IT-2	,084	,080	,088	,239
ALPHA-7	,127	,120	,132	,076
EPSILON-1	-,212	-,204	-,241	,003
ETA-2	,019	,018	,027	,791
DELTA-1	-,019	-,018	-,024	,795
HI-1	,001	,001	,001	,993
SIGMA-1	,087	,082	,118	,223
ALPHA-1	,035	,033	,055	,621

R	R Square	Sig.
,345a	,119	,003b

### 6.7.5. Regression Analysis of the General (Quinary) Trademark Quality Factor (TMQ) with the Cognitive and Conative Variables

The regression analysis of the quinary factor (composed of the integrated quaternary factors) is shown at Table 81.

Entire system of cognitive and conative variables influences this general factor, nominated as trademark quality factor. The influence is statistically significant with probability of estimation of the trademark quality of factor of above 99 %, which is an outcome of the Sig coefficient on multivariate level (the value of Sig is 0,003).

The multiple correlation is rather high, with value of 0,43. This correlation is identified by the coefficient of determination on a multivariate level.

In other words, we can assert with high degree of probability (99%) that the entire cognitive and conative variables of consumers is associated with high multiple correlation with the general trademark quality factor.

The major contribution for the parameters of the multivariate level of the regression analysis is given by the cognitive variable ALPHA-7 (efficiency of the serial processor;) and the conative variable EPSILON-1 (regulation of the excitatory and inhibitory processes). The contribution of both variables is at the level of 0,01. Their Sig coefficients are: 0,0003 for EPSILON-1 and 0,014 for ALPHA-7.

However, the contribution of the influence of EPSILON-1 is considerably higher, if compared to the contribution of ALPHA-7. This is mostly visible from the coefficients of the standardized partial regression (Beta). Beta of ESILON-1 is -0,28; whereas BETA of ALPHA-7 is 0,18.

In this context, the Pearson's correlation and the partial correlations of both variables. In the case of EPSILON-1 these correlations are higher ( $R=-0,25$ ;  $\text{Part-R}=0,24$ ), than in the case of ALPHA-7 ( $R=0,18$ ;  $\text{Part-R}=0,16$ ).

**The results from table 81 are of crucial importance for the research aim: they confirm the importance of the association of the cognitive and conative variables with the existence of a common trademark characteristic, previously established as a general trademark quality factor isolated with the applied factor analysis.**

**Thus, both the factor analysis and the regression analysis acknowledged the justification of the research aim; the factor analysis proved the existence of a trademark quality factor, whereas the regression analysis confirmed the influence of the cognitive and conative variables over the trademark quality factor. This assertion provides an answer to the basic aim research.**

Table 81: Regression Analysis of the General Trademark Quality Factor (TMQ) With the Cognitive and Conative Variables

	R	Part-R	Beta	Sig
IT-1	,015	,014	,015	,199
IT-2	,093	,084	,094	,832
ALPHA-7	,175	,160	,177	,194
EPSILON-1	-,254	-,237	-,280	,014
ETA-2	,081	,074	,110	,000
DELTA-1	-,049	-,044	-,060	,257
HI-1	-,052	-,047	-,069	,495
SIGMA-1	,107	,097	,139	,471
ALPHA-1	,062	,056	,092	,137
				,386

R	R Square	Sig.
,430a	,185	,003b

### 6.7.6. Regression Analysis in Latent Space

#### Regression Analysis Between the Trademark Characteristics Factors (F1-F28) and the Cognitive and Conative Factors (CNF, CGF & 3rd Factor)

Tables 82-109 present regression analysis applied in latent space.

The isolated cognitive and conative factors (CNF, CGF and the 3rd factor) are treated as predatory variables, whereas criterion variable is each isolated factor that defines an individual trademark characteristic.

In this context, we can outline that **the regression analysis in latent space, from a methodological aspect has higher scientific and research importance than the regression analysis in manifest or combined space.**

The higher scientific importance is in fact an output of the fact that regression analysis in latent space provide information on casual relationships between predatory and criterion variables. Hence, regression analysis in latent space demonstrate how the cognitive abilities and conative features of consumers (predictory latent dimensions) influence the characteristics



of trademarks (criteria latent dimensions). Thus, trademark characteristics are dependent on the consumers' cognitive abilities and conative features.

Part of these regression analysis show statistically significant influence of the CNF, CGF and the 3rd factor over the trademark characteristics factor (over certain trademark characteristics), while the other part of the regression analysis show no such statistically significant influence.

Table 82 for instance, reports that the predatory system of the three psychological factors doesn't have statistically significant influence on the trademark visual and figurative similarity factor. The influence of each psychological factor on univariate level also show no statistically significant influence over the trademark visual and figurative similarity factor.

Table 82: Regression Analysis of the 1st Trademark Characteristics' Factor (F1) (Trademarks Visual and Figurative Similarity Factor) With the Cognitive and Conative Factors

	R	Part-R	Beta	Sig
CNF	,027	,027	,027	,705
CGF	-,115	-,115	-,116	,103
3rd factor	-,085	-,085	-,085	,228

R	R Square	Sig.
,139a	,019	,271b

The subsequent tables (83, 84 and 85), provide the consideration that the cognitive and conative factors in statistically significant manner influence the trademark characteristics factors.

The multivariate influence of the cognitive and conative factors system over the 2nd trademark characteristics factor (F2) (Table 83) shows statistical significant influence at the level of 0,01 (Sig=0,04). The multiple correlation (R) which is also statistically significant has a value of 0,25, while the coefficient of determination (R Square) is relatively low, but still statistically significant (0,6). Nevertheless, having in mind the small number of predictors (3) defined by reduced valid variance, typical for isolated factors, the relativity of R Square is acquiring more expressed influence than the numerical value.

The multivariate influence of the entire system in higher degree is derived from the statistical significance of the 3rd factor, in the context of the univariate influence of the predictors. This 3rd factor's influence is at the level of 0,01 (Sig=0,03), which mean that there is 99% probability of estimation of the influence th3 3rd factor over F2. This influence is also supplemented by the statistically significant Pearson's correlation, partial correlation and the standardized partial regression. All coefficient has values above 0,20 (R=0,210; Part-R =0,207;

Beta=0,208). Out of these three coefficients, they priority of interpretation is attributed to the Bet coefficient, because of its outlined value (21%).

Table 83: Regression Analysis of the 2nd Trademark Characteristics' Factor (F2) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-,126	-,123	-,123	,074
CGF	-,045	-,043	-,044	,526
3rd factor	,210	,207	,208	,003

R	R Square	Sig.
,253a	,064	,004b

Table 84 and 85 data loadings, also point out statistically significant influence of the cognitive and conative factors over the appropriate trademark characteristics (distinctiveness of denominations and figurative signs and trademark guarantee function).

The multivariate association of the system of the cognitive and conative factors with the factor of denominations and figurative signs is statistically significant with probability of estimation of above 99% (Sig=0,01). The values of multiple correlation (R) and the coefficient of determination (R Square) are corresponding with this statistically significant association (R= 0,27; R Square=0,07).

The prognosis of this association is foremost statistically and significantly founded on the association of the 3rd factor (structured of ALPHA-7 and EPSILON-1) with the factor of distinctiveness of denominations and figurative signs (F3). The statistical significance of the 3rd factor reads 0,001. This significance is also manifested in the values of Pearson's correlation (R), partial correlation (Part R) and the standardized partial regression (Beta). The values of these three parameters are identical (0,22).

The influence of the other two cognitive and conative factors (CNF and CGF) reads no statistically significant influence.

**Consequently, the distinctiveness of denominations and figurative signs of trademarks is under dominant influence of the consumer's factor structured of the efficiency of the serial processor and the regulation of the excitatory and inhibitory processes.**

Table 84: Regression Analysis of the 3rd Trademark Characteristics' Factor (F3) (Factor of Distinctiveness (Denominations) and Figurative Signs) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-,106	-,103	-,103	,133
CGF	-,094	-,091	-,091	,184
3rd factor	,223	,220	,221	,001

R	R Square	Sig.
,272a	,074	,001b

It is evident from Table 85, that the predatory value of the cognitive and conative factors also has statistically significant influence over the factor of trademark guarantee function. This latent influence is manifested at the level of 0,05 (Sig=0,022). The values of the coefficient of multiple correlation and the coefficient of determination are adequate to this situation.

The statistically significant influence on a multivariate level is foremost due to the contribution of the 1st factor (general conative factor) (CNF). The CNF univariate contribution is statistically significant with probability of 0,05. On a univariate level, R, Part R and Beta have identical value: 0,16.

**Therefore, the factor of trademark guarantee function is principally influenced by the conative features of consumers.**

Table 85: Regression Analysis of the 4th Trademark Characteristics' Factor (F4) (F4) (Factor of Trademark Guarantee Function) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,162	,160	,161	,021
CGF	,081	,080	,080	,249
3rd factor	,119	,117	,117	,093

R	R Square	Sig.
,216a	,047	,022b

The regression associations (Table 86 and 87) of the 5th trademark characteristics factor (F5) and the 6th trademark characteristics factor (factor of telecommunications products) (F6) with the three-isolated conative and cognitive factors are not statistically significant, neither at the level of 0,05 nor at the level of 0,01.

Apparently, the recognition of both F5 and F6 is not dependent on the influence of the treated cognitive abilities and conative features of consumers.

Table 86: Regression Analysis of the 5th Trademark Characteristics'

Factor (F5) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig.
CNF	,139	,138	,139	,049
CGF	,032	,032	,032	,648
3rd factor	,046	,046	,046	,514

R	R Square	Sig.
,152a	,023	,198b

Table 87: Regression Analysis of the 6th Trademark Characteristics'  
Factor (F6) (Factor of Telecommunications Products) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig.
CNF	-,074	-,073	-,074	,296
CGF	-,111	-,111	-,112	,115
3rd factor	,011	,011	,011	,880

R	R Square	Sig.
,142a	,020	,255b

Despite that, Tables 88, 89 and 90 data loadings outline a dependence of three trademark characteristics (F7, F8 and F9), conditioned by the conative and cognitive factors.

For instance, the recognition of the factor of stylized letters (F7) on multivariate level is statistical significant under influence of the applied set of conative and cognitive factors.

This significance is on the level of 0,05 (Sig=0,019). Furthermore, the multiple correlation and the coefficient of determination is in accordance with Sig.

The major role in the above-mentioned significance plays the statistically significant contribution of the 3rd factor in the framework of the univariate regression analysis. The borderline of statistical significance of the 3rd factor over F7 is at the level of 0,01, i.e. the definition is with 99%.

One can also note that all three coefficients of the 3rd factor (R, Part R and Beta) have similar values (around -0,19).

Hence, the in this case as well, the **efficiency of the serial processor as a cognitive ability and the regulation of the excitatory and inhibitory processes as a conative feature of consumers affect the factor of stylized letters as trademark characteristics.**

Table 88: Regression Analysis of the 7th Trademark Characteristics'

Factor (F7) (Factor of Stylized Letters) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,040	,039	,039	,573
CGF	,079	,077	,078	,263
3rd factor	-,195	-,194	-,194	,005

R	R Square	Sig.
,220a	,049	,019b

A similar situation is noted at the regression analysis of the factor of descriptiveness (ingredient or quality) and trade dress similarity (F8) with the cognitive and conative factors. In this case, the association of the psychological factors with F8 is statistically significant at the level of 0,01 (Sig=0,03).

The multivariate level multiple correlation is easily noted (R=0,26). The coefficient of determination is not quite expressed (R-Square =0,07), but still statistically significant.

The significance of the statistical association of the entire set (CNF, CGF, 3rd factor) over the factor of descriptiveness (ingredient or quality) and trade dress similarity (F8) is an outcome of the contribution of the 3rd factor, which has a coefficient for testing of statistical significance that reads 0,001. The three coefficients of the 3rd factor (R, Part R and Beta) have values of -0,23.

**Accordingly, the recognition of the descriptiveness (ingredient or quality) and trade dress similarity as a trademark characteristic by consumers principally depends on the 3rd factor (structured of the efficiency of the serial processor and the regulation of the excitatory and inhibitory processes).**

Table 89: Regression Analysis of the 8th Trademark Characteristics' Factor (F8) (Factor of Descriptiveness (Ingredient or Quality) and Trade Dress Similarity) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,052	,050	,050	,465
CGF	,087	,084	,085	,221
3rd factor	-,233	-,231	-,232	,001

R	R Square	Sig.
,260a	,068	,003b

It is visible from the data presented at Tables 90, 91, 92, 93 and 94, that the cognitive and conative latent dimensions of consumers don't have statistically significant influence on the following trademark characteristics: the 9th Trademark Characteristics' Factor (F9); the color trademark factor (F10); the copyright and personality rights factor (F11); the factor of social media Regulation (F12); and factor of religious symbols and geographical indications (F13). Thus, the interpretation of the regression association between these trademark factors and the system of cognitive and conative factors is not indispensable.

The univariate regression association between the F9 trademark characteristics factor and the 3rd factor is statistically significant at the level of 0,05. Same refers to the association of the factor of religious symbols and geographical indications (F13) and the general cognitive factor (CGF) where Sig=0,05. In both cases the significance appears to be a consequence of accidental influences.

Table 90: Regression Analysis of the 9th Trademark Characteristics' Factor (F9) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,054	,053	,053	,446
CGF	-,109	-,108	-,109	,121
3rd factor	,143	,142	,142	,042

R	R Square	Sig.
,189a	,036	,064b

Table 91: Regression Analysis of the 10th Trademark Characteristics' Factor (F10) (Color Trademark Factor) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
				,966
CNF	-,033	-,033	-,033	,639
CGF	-,119	-,119	-,120	,092
3rd factor	,012	,012	,012	,867

R	R Square	Sig.
,129a	,017	,337b

Table 92: Regression Analysis of the 11th Trademark Characteristics' Factor (F11) (Copyright and Personality Rights Factor) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
				,971
CNF	-,071	-,069	-,070	,318
CGF	-,099	-,098	-,099	,159
3rd factor	,136	,135	,135	,054

R	R Square	Sig.
,192a	,037	,057b

Table 93: Regression Analysis of the 12th Trademark Characteristics' Factor (F12) (Factor of Social Media Regulation) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
				,998
CNF	-,125	-,124	-,125	,076
CGF	-,066	-,065	-,066	,350
3rd factor	-,078	-,077	-,078	,269

R	R Square	Sig.
,163a	,027	,144b

Table 94: Regression Analysis of the 13th Trademark Characteristics' Factor (F13) (Factor of Religious Symbols and Geographical Indications) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,074	,073	,074	,295
CGF	,140	,140	,141	,046
3rd factor	,053	,052	,052	,458

R	R Square	Sig.
,170a	,029	,117b

Contrary to the previous situations, Table 95 reports a statistically significant association of the factor of bad faith trademark application (F14) with the applied predatory system of psychological latent dimensions of consumers.

In this sense, a prognosis of the recognition of the factor of bad faith trademark application is feasible on the basis of the psychological system of consumer's latent dimensions. The probability of this recognition is at the most severe conventional level of statistical significance of 0,01.

The contribution for this association is foremost derived from the statistically significant influence of the 3rd factor. The probability of this univariate influence is defined with 99%.

This is apparent from the high value of Beta, which in this case is identical with the Pearson's correlation and the partial correlation (0,22).

**Consequently, bad faith trademark application as trademark characteristics can be recognized not only by the entire set of influence of the predatory system, but from the influence of the 3rd psychological factor.**



Table 95: Regression Analysis of the 14th Trademark Characteristics' Factor (F14) (Factor of Bad Faith Trademark Application) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-,101	-,099	-,099	,152
CGF	,000	,000	,000	,995
3rd factor	,217	,216	,217	,002

R	R Square	Sig.
,241a	,058	,008b

On the other hand, such statistical significant influence is not visible from the regression analyses presented at tables 96, 97, 98, 99, 100 and 101. These tables data loadings refer to the associations of the predatory psychological factors and the following trademark factors: Factor of Phonetical (Aural) Similarity (F15); Conceptual Similarity Factor (F16); F17; Factor of Deceptiveness (Nature, Quality and Origin of Product (F18); Factor of Description of Value, Purpose, Origin of Goods or Services (F19); and Genericness Factor (F20).

In all situations above the dependence of recognition of the mentioned trademark characteristics is not conditioned by the treated predatory system of cognitive abilities and conative features of consumers.

This consideration is expressed in more clear sense since none of the psychological latent dimensions at a univariate level also doesn't show statistical significance for recognition of all applied trademark characteristics.

Table 96: Regression Analysis of the 15th Trademark Characteristics' Factor (F15) (Factor of Phonetical (Aural) Similarity) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,056	,056	,056	,425
CGF	-,100	-,099	-,100	,159
3rd factor	,070	,070	,070	,320

R	R Square	Sig.
,133a	,018	,312b

Table 97: Regression Analysis of the 16th Trademark Characteristics' Factor (F16) (Conceptual Similarity Factor) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF				,996
	,106	,106	,107	,132
CGF 3rd factor	-,067	-,066	-,067	,345
	-,020	-,019	-,020	,782

R	R Square	Sig.
,121a	,015	,400b

Table 98: Regression Analysis of the 17th Trademark Characteristics' Factor (F17) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF				,987
	-,126	-,125	-,126	,075
CGF 3rd factor	,029	,028	,029	,685
	,097	,096	,097	,169

R	R Square	Sig.
,159a	,025	,161b

Table 99: Regression Analysis of the 18th Trademark Characteristics' Factor (F18) (Factor of Deceptiveness (Nature, Quality and Origin of Product) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF				,981
	-,102	-,102	-,102	,149
CGF 3rd factor	-,081	-,080	-,081	,254
	,029	,029	,029	,677

R	R Square	Sig.
,142a	,020	,253b

Table 100: Regression Analysis of the 19th Trademark Characteristics' Factor (F19) (Factor of Description of Value, Purpose, Origin of Goods or Services) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-.016	-.016	-.016	,924
CGF	-.086	-.086	-.086	,817
3rd factor	-.066	-.066	-.066	,225
				,350

R	R Square	Sig.
,107a	,012	,508b

Table 101: Regression Analysis of the 20th Trademark Characteristics' Factor (F20) (Genericness Factor) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-.007	-.007	-.007	,988
CGF	-.063	-.063	-.063	,921
3rd factor	-.045	-.045	-.045	,373
				,528

R	R Square	Sig.
,076a	,006	,764b

Table 102 data loadings demonstrates that on the basis of the psychological factors, their influence can be prognoses over the factor of three-dimensionality as a trademark characteristic (F21). This probability is above 95% (Sig=0,03). This prognosis is also represented with the multiple correlation and the coefficient of determination of the entire system over the criterion variable (factor of three-dimensionality) (R=0,26; R Square=0,07).

This influence is mostly based on the 3rd psychological factor contribution: its influence is statistically significant at the level of 0,001 (Sig=0,001). Its coefficients of univariate level (R, Part-R and Beta) have identical values:0,23.

**Apparently, the 3rd psychological factor influences the three-dimensionality trademark characteristic.**

Table 102: Regression Analysis of the 21st Trademark Characteristics' Factor (F21) (Factor of Three-Dimensionality) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
				,938
CNF	,034	,033	,033	,629
CGF	,132	,129	,130	,061
3rd factor	,232	,230	,231	,001

R	R Square	Sig.
,260a	,067	,003b

The psychological factors as predatory system don't show influence over the appropriate latent characteristic-factor of trademarks (Factor of Identical or Similar Goods and Services; Public Order and Morality Factor and F24) (Table 103, 104, 105). The absence of evidence of the influence can be attributed to outer, exogenous factors during the testing of the subjects, such as the motivation and emotional condition, measurement circumstances and other not known factors.

Table 103: Regression Analysis of the 22nd Trademark Characteristics' Factor (F22) (Factor of Identical or Similar Goods and Services) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
				,882
CNF	-,046	-,046	-,046	,511
CGF	,042	,042	,042	,553
3rd factor	-,098	-,098	-,098	,164

R	R Square	Sig.
,117a	,014	,433b

Table 104: Regression Analysis of the 23rd Trademark Characteristics' Factor (F23) (Public Order and Morality Factor) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF				,965
	,009	,009	,009	,897
CGF	,123	,123	,124	,082
3rd factor	-,019	-,019	-,019	,791

R	R Square	Sig.
,128a	,016	,348b

Table 105: Regression Analysis of the 24th Trademark Characteristics' Factor (F24) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF				,952
	,043	,043	,043	,545
CGF	-,028	-,027	-,028	,697
3rd factor	-,124	-,124	-,125	,078

R	R Square	Sig.
,133a	,018	,312b

The multivariate level regression analysis (Table 106) of the psychological latent dimensions over the factor of description of time of production or technical characteristics of goods, as a criterion variable, demonstrated an association with probability at the level of 0,05 (Sig=0,04).

The univariate regression analysis show that the 3rd latent psychological dimension statistically and significantly contributes for the association on a multivariate level. The statistical significance of the 3rd latent dimension is at the level of 0,01, i.e. the probability of prediction is with 99% (Sig=0,05). This consideration is also confirmed by the identical value of R, Part-R and Beta (0,20).

**Therefore, one can assume that the descriptiveness of time of production or technical characteristic of products is foremost affected by the 3rd psychology factor of consumers.**

Table 106: Regression Analysis of the 25th Trademark Characteristics' Factor (F25) (Factor of Description of Time of Production or Technical Characteristics of goods) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-,014	-,014	-,014	,839
CGF	,025	,024	,024	,728
3rd factor	,199	,199	,199	,005

R	R Square	Sig.
,200a	,040	,043b

**As per Facebook user regulation awareness and the frequency of internet search engines use and Cybersquatting (defined as criteria variables), it is evident from Tables 107 and 108, that these two factors (F26, F27) are not under influence of the psychological latent dimensions, since there is no statistical significance noticed at the level of 0,05.**

Table 107: Regression Analysis of the 26th Trademark Characteristics' Factor (F26) (Factor of Facebook User Regulations Awareness) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-,089	-,089	-,089	,209
CGF	,021	,021	,021	,765
3rd factor	-,009	-,009	-,009	,899

R	R Square	Sig.
,090a	,008	,654b

Table 108: Regression Analysis of the 27th Trademark Characteristics' Factor (F27) (Factor of Frequency of Internet Search Engines Use and Cybersquatting) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-,139	-,138	-,139	,049
CGF	,119	,118	,119	,092
3rd factor	-,017	-,017	-,017	,806

R	R Square	Sig.
,174a	,030	,104b

On the other hand, the predictory system of psychological factors has statistically significant influence over the last primary trademark characteristics factor (estimation of product quality, F28), at the level of 0,01.

The multiple correlation (R) is quite expressed (0,27), while the coefficient of determination is (R Square) is in accordance with this correlation (0,72).

This influence is an outcome from 2 out of 3 predictory psychological latent dimensions (factors): the general conative factor (CNF) and the 3rd bipolar psychological factor. It is visible that this influence is defined at the level of 0,01 both at CNF (Sig=0,004) and at the 3rd factor (Sig=0,010). However, from a comparative aspect, the general conative factor has more expressed influence, which is evident from R, Part-R and Beta values of CNF (0,20). These values for the 3rd factor is a bit lower and read -0,18. The larger influence of CNF is mainly due to the value of Beta.

**Apparently, the estimation of product quality as a trademark characteristic is dependent on the conative features of consumers as well as on the efficiency of the serial processor and excitatory and inhibitory processes (integrated in the 3rd factor).**

Table 109: Regression Analysis of the 28th Trademark Characteristics' Factor (F28) (Factor of Estimation of Product Quality) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,201	,198	,199	,004
CGF	-,028	-,027	-,027	,693
3rd factor	-,181	-,177	-,178	,010

R	R Square	Sig.
,268a	,072	,002b

Regression Analysis of the Trademark Characteristics Secondary Factors (S1-S11) with the Cognitive and Conative Factors (CNF, CGF and the 3rd Factor)

Regression analyses of the trademark characteristics secondary factors with respect to the system of psychological latent dimensions in 6 cases showed statistically significant association (tables 110, 111, 113, 114, 117 and 118), while in 5 other cases (tables 112, 115, 116, 119 and 120) didn't show such influence.

The association of the system of psychological latent dimensions with the factors: copyright, personality rights and telecommunications factor (S1) (Table 110); factor of three dimensionality, identical or similar goods and services and public order and morality (S2) (Table 111); 4th Trademark Characteristics' Secondary Factor (S4) (Table 113); and the factor of bad faith trademark application and conceptual similarity (S8) (Table 117) has a statistical significance at the level of 0,01.

On the other hand, the statistical significance is at level of 0,05 for the association of the system of psychological factors and the following secondary trademark factors: Factor of Trademark Guarantee Function and Estimation of Product Quality (S5) (Table 114) and the S9 (factor of phonetically (aural) similarity and the 9th primary factor) (Table 118).

The multivariate level multiple correlation and the coefficient of determination are highest for the factor of bad faith trademark application and conceptual similarity (S8), having values of R=0,41; R-Square=0,17 (Table 117). Despite that, it appears R and R Square are lowest for S9 (R=0,21; R Square=0,04) (Table 118).

On a univariate level, statistical significance is evident in the influences of the general conative factor (CNF) and the 3rd factor over the copyright personality rights and telecommunications factor (S1) as well as over the factor of bad faith trademark application



and conceptual similarity (S8), which is easily noted at Tables 110 and 117 respectively. Table 111 reports that only the 3rd psychological factor contributes for the influence over the three-dimensionality, identical or similar goods and services and public order and morality (S2). Furthermore, 4th Trademark Characteristics' Secondary Factor (S4) is influence only by the general cognitive factor (CGF) (Table 113).

Also on a univariate level, the general conative factor (CNF) influences on the Trademark Guarantee Function and Estimation of Product Quality (S5) (Table 114). The major contribution for the influence over the S9 (factor of phonetically (aural) similarity and the 9th primary factor is played by 3rd psychological factor.

The above univariate influences of the psychological factors are with probability of estimation of 99%.

Concerning the individual coefficients in the cases where there is a statistically significant association visible, the Pearson's correlation, the partial correlation, and the standardized partial regression coefficients are highest in the case of the factor of bad faith trademark application and conceptual similarity (S8) (R, Part R and Beta read 0,37) (Table 117). The lowest coefficients in this sense (-0,20) are noted at the influence of the cognitive abilities and conative features over the S9 Factor.

Consequently the system of cognitive abilities and conative features of consumers are influent over six integrated secondary trademark factors (copyright, personality rights and telecommunications; three dimensionality, identical or similar goods and services and public order and morality ; 4th trademark characteristics' secondary factor; bad faith trademark application and conceptual similarity; trademark guarantee function and estimation of product quality; and the factor of phonetical (aural) similarity.

**Moreover, the system of cognitive abilities and conative features of consumers predominantly influences bad faith trademark application and conceptual similarity. The influence of the psychological system is lowest for the factor of phonetical (aural) similarity.**

Table 110: Regression Analysis of the 1st Trademark Characteristics' Secondary Factor (S1) (copyright, personality rights and telecommunications factor) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,162	,157	,158	,021
CGF	,132	,128	,129	,060
3rd factor	-,201	-,195	-,196	,004

R	R Square	Sig.
,299a	,089	,000b

Table 111: Regression Analysis of the 2nd Trademark Characteristics' Secondary Factor (S2) (factor of three dimensionality, identical or similar goods and services and public order and morality) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,045	,044	,044	,525
CGF	-,005	-,005	-,005	,944
3rd factor	,245	,245	,246	,000

R	R Square	Sig.
,249a	,062	,005b

Table 112: Regression Analysis of the 3rd Trademark Characteristics' Secondary Factor (S3) (Factor of deceptiveness (nature, quality and origin) and descriptiveness (value, purpose and origin) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-.086	-.085	-.085	,879
CGF	-.105	-.105	-.106	,226
3rd factor	-.052	-.051	-.052	,135
				,463

R	R Square	Sig.
,149a	,022	,213b

Table 113: Regression Analysis of the 4th Trademark Characteristics' Secondary Factor (S4) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,113	,110	,111	,972
CGF	-.222	-.221	-.223	,108
3rd factor	-.094	-.091	-.091	,001
				,185

R	R Square	Sig.
,250a	,062	,005b

Table 114: Regression Analysis of the 5th Trademark Characteristics' Secondary Factor (S5) (Factor of Trademark Guarantee Function and Estimation of Product Quality) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,209	,209	,210	,990
				,003
CGF	,019	,018	,018	,793
3rd factor	,028	,028	,028	,689

R	R Square	Sig.
,214a	,046	,025b

Table 115: Regression Analysis of the 6th Trademark Characteristics' Secondary Factor (S6) (factor of visual and figurative similarity, descriptiveness (ingredient or quality) and trade dress similarity) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,086	,085	,085	,987
				,226
CGF	-,015	-,015	-,015	,827
3rd factor	,136	,136	,136	,054

R	R Square	Sig.
,159a	,025	,160b

Table 116: Regression Analysis of the 7th Trademark Characteristics' Secondary Factor (S7) (factor of distinctiveness of denominations and figurative signs and descriptiveness (time of production and technical characteristics) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
				,977
CNF	,009	,009	,009	,902
CGF	,102	,102	,103	,147
3rd factor	-,109	-,109	-,109	,122

R	R Square	Sig.
,156a	,024	,177b

Table 117: Regression Analysis of the 8th Trademark Characteristics' Secondary Factor (S8) (factor of bad faith trademark application and conceptual similarity) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
				,938
CNF	-,179	-,166	-,167	,011
CGF	-,014	-,013	-,013	,843
3rd factor	,377	,371	,372	,000

R	R Square	Sig.
,413a	,170	,000b

Table 118: Regression Analysis of the 9th Trademark Characteristics' Secondary Factor (S9) (factor of phonetically (aural) similarity and the 9th primary factor) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF				,954
	,035	,035	,035	,618
CGF	,025	,025	,025	,720
3rd factor	-,197	-,196	-,197	,005

R	R Square	Sig.
,205a	,042	,035b

Table 119: Regression Analysis of the 10th Trademark Characteristics' Secondary Factor (S10) (color trademark factor) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF				,990
	,029	,028	,029	,686
CGF	-,046	-,045	-,046	,519
3rd factor	,107	,106	,107	,131

R	R Square	Sig.
,121a	,015	,401b

Table 120: Regression Analysis of the 11th Trademark Characteristics' Secondary Factor (S11) (factor of genericness with participation of F17) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
				,999
CNF	-,057	-,057	-,057	,422
CGF	-,066	-,066	-,066	,351
3rd factor	,058	,058	,058	,413

R	R Square	Sig.
,112a	,013	,471b

**Regression Analysis of the Trademark Characteristics Tertiary Factors (T1-T4) with the Cognitive and Conative Factors (CNF, CGF and the 3rd Factor)**

Table 121 and 122 shows that the predatory system of cognitive and conative factors (CNF, CGF and the 3rd Factor) has statistically significant influence on the 1st (T1) and 2nd (T2) trademark characteristics tertiary factor at the level of 0,01.

In the case of the influence of the T1 factor, the multiple correlation is quite high (0,38), while the coefficient of determination is 15%. The appearance of these parameters is due to the contribution of the 3rd factor. This influence is statistically significant at the level of 0,000. The values of the Pearson's correlation, partial correlation and the standardized determination have same values (R, Part- R and Beta=-0,35).

As far as T2 is concerned, the statistical significance is at the borderline of significance that has produced a multiple correlation of the entire predatory system with T2 (0,23) and coefficient of determination 0,54. On univariate level there is no statistically significant association noted of the T2 factor with the cognitive and conative factors (CNF, CGF and the 3rd Factor).

Table 121: Regression Analysis of the 1st Trademark Characteristics' Tertiary Factor (T1) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,130	,122	,122	,064
CGF	,060	,056	,056	,393
3rd factor	-,351	-,346	-,347	,000

R	R Square	Sig.
,381a	,145	,000b

Table 122: Regression Analysis of the 2nd Trademark Characteristics' Tertiary Factor (T2) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	-,121	-,119	-,119	,086
CGF	-,129	-,126	-,128	,068
3rd factor	,131	,128	,129	,063

R	R Square	Sig.
,231a	,054	,012b

Table 123 loadings demonstrate that the regressive association between the 3rd Trademark Characteristics' Tertiary Factor (T3) with the entire set of psychological factors is not statistically significant.

Table 123: Regression Analysis of the 3rd Trademark Characteristics' Tertiary Factor (T3) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,065	,064	,065	,359
CGF	,093	,092	,093	,190
3rd factor	,039	,039	,039	,583

R	R Square	Sig.
,123a	,015	,385b



It is evident from Table 124 that the regression analysis of the 4th Trademark Characteristics' Tertiary Factor (T4) over the cognitive abilities and conative variables is statistically significant with probability of estimation of above 99% (Sig=0,000).

The coefficient of multiple correlation reads 0,32, while the coefficient of determination is 0,10.

Major contribution for the influence of the predatory system is given by the 3rd factor, an influence also expressed at the level of 99%. R, Part-R and Beta of the 3rd factor has identical value: -0,312.

Table 124: Regression Analysis of the 4th Trademark Characteristics' Tertiary Factor (T4) with the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	,056	,053	,053	,433
CGF	-,064	-,061	-,061	,365
3rd factor	-,312	-,312	-,312	,000

R	R Square	Sig.
,319a	,101	,000b

Regression analysis of the Trademark Characteristics Quaternary Factors (Q1-Q2) with the Cognitive and Conative Factors CNF, CGF and the 3rd Factor)

The system of psychological factors (Table 125) demonstrated statistically significant influence over the of the 1st Trademark Characteristics' Quaternary Factor (Q1) at the level of 0,01, i.e. sig=0,000. The multiple correlation of the set of psychological variables in this sense is considerably expressed (R=0,42), while the coefficient of determination is 18%.

Within the definition of the multivariate influence of the system of psychological variables over Q1, 2 factors participate on a univariate level: the general conative factor (CNF); and the 3rd bipolar factor. The statistical influence of these two factors is also at the level of 0,01. However, greater influence is noted in the 3rd factor, which has expressed values of the Pearson's correlation (R=-0,37), Partial correlation (Part-R=0,37); and the coefficient of standardized partial correlation (Beta=-0,36). The latter univariate values are less expressed for CNF (R=0,19; Part-R=0,18; and Beta=0,17).

Hence the Q1 trademark characteristics is dominantly under the influence of the **efficiency of the serial processor (as a cognitive ability) and excitatory and inhibitory processes (integrated in the 3rd factor) of consumers**, but also under the influence of the **consumer conative features** (system of regulation and control of the personality defense functions; the system of regulation and control of the organic functions; efficiency of the system of regulation and control the attack

**reaction; the homeostatic regulation system; the system of integration of the regulation system).**

Table 125: Regression Analysis of the 1st Trademark Characteristics' Quaternary Factor (Q1) With the Cognitive and Conative Factors

	R	Part-R	Beta	Sig
CNF	,186	,178	,165	<b>,011</b>
CGF	,158	,123	,114	,080
3rd Factor	-,368	-,365	-,356	<b>,000</b>

R	R Square	Sig.
,424	,180	,000

The influence of the set of psychological variables in the case of the 2nd Trademark Characteristics' Quaternary Factor (Q2) is more expressed than in the case of Q1.

This is also visible at Table 126. This influence is expressed both at multivariate and univariate level. At a multivariate level, the statistical significance of the influence is above 99% (Sig=0,000).

All indicators in this regression analysis have largest numerical values compared to the other predatory influences in the other regression analysis.

Hence, the statistical significance on a multivariate level is almost maximally significant with probability of estimation of above 99% The multiple correlation between the system of psychological variables and the 2nd Trademark Characteristics' Quaternary Factor (Q2) is high (R=0,52). Correspondently, the value of the coefficient of determination is also expressed (R-Square is 27%).

In the production of the statistical significance on a multivariate level, all three isolated psychological factors participate with univariate influence, in a way that each of them participates with statistical significance of above 99% (Sig value for each of these factors is 0,000). This also demonstrates the greatest probability that the psychological factors are associated.

The highest coefficients on a univariate level is noted at the influence of the general conative factor (CNF): Pearson's coefficient of correlation (R) is -0,38, while the partial correction (Part-R) is -0,37. The coefficients are corresponding to Beta (-0,35).

The adequate coefficients of CGF and the 3rd factor are lower, but as previously mentioned with statistical significance of 99%.

Accordingly, both cognitive and conative abilities influence trademark characteristics integrated in Q2 (copyright, personality rights and telecommunications factor (S1); factor of deceptiveness (nature, quality and origin) and descriptiveness (value, purpose and origin) (S3); factor of trademark guarantee function and estimation of product quality (S5); and the factor of bad faith trademark application and conceptual similarity (S8); the factor of three dimensionality, identical or similar goods and services and public order and morality (S2); factor of distinctiveness of denominations and figurative signs and descriptiveness (time of

production or technical characteristics) with participation Facebook user regulations awareness (S7), and with the color trademark factor (S10)).

In this sense, Q2 trademark characteristics are influenced by : Firstly, the **efficiency of the serial processor (as a cognitive ability) and excitatory and inhibitory processes (as a conative feature)** ; Secondly, **by the efficiency of the system of regulation and control of the personality defense functions; the efficiency of the system of regulation and control of the organic functions; the efficiency of the system of regulation and control the attack reaction; the homeostatic regulation system; the system of integration of the regulation system; and thirdly, by efficiency of the perceptual processor; the efficiency of the parallel processor.**

**As an additional consideration, one can outline that according to the data, the hypothesis for the realization of the research aim is completely logically verified particularly regarding the association of the psychological factors with the recognition of trademark characteristics integrated in the Q2.**

Table 126: Regression Analysis of the 2nd Trademark Characteristics' Quaternary Factor (Q2) With the Cognitive and Conative Factors

	R	Part R	Beta	Sig
CNF	-,380	-,372	-,346	,000
CGF	-,314	-,288	-,260	,000
3 <sup>rd</sup> Factor	,243	,244	,216	,000

R	R Square	Sig.
,515	,266	,000

**Regression Analysis of the General (Quinary) Trademark Quality Factor (TMQ) with the Cognitive and Conative Factors (CNF, CGF and the 3rd Factor)**

Table 127 displays the evidence that the regression analysis as an important indicator of the accomplishment of the research aim. The table evinces a statistically significant influence of the entire system of psychological variables, over the general trademark characteristic, i.e. the General (Quinary) Trademark Quality Factor (TMQ). This influence of the entire set of factors is with probability of estimation of above 99%.

The main part in the influence of the entire set of psychological factors is provided by the 3rd psychological predictory factor. Its influence is also expressed with prediction of above 99% (Sig=0,000).

**Consequently, trademark quality is predominantly under the influence of the efficiency of the serial processor (as a cognitive ability) and excitatory and inhibitory processes (integrated in the 3rd factor) of consumers.**

Table 127: Regression Analysis of the General Trademark Quality Factor (TMQ) With the Cognitive and Conative Factors

Factors	R	Part-R	Beta	Sig
CNF	.114	.111	.111	.107
CGF	.069	.067	.067	.329
3rd factor	-.211	-.209	-.210	.003

R	R Square	Sig.
.256a	.066	.003b

**Regression Analysis of the Reduced System of Variables in General Latent Dimension (Unique Principal Component- H) (Trademark Quality)**

For the purpose of verification of the influence of the system of psychological variables over the general quinary factor (trademark quality), demonstrated in the hierarchical regression analysis, another (supplementary) regression analysis in latent space is applied.

In the supplementary regression analysis, the 3-isolated cognitive and conative factors are applied as predictors, while the calculated reduced (condensed) unique principal component is used as criterion latent variable.

The unique principle component as a criterion variable is obtained from the system of 28 extracted trademark factors (characteristics), as manifest variables, on the basis of the 79 applied trademark tests. In other words, the criterion variable is extracted through the antecedent factor analysis applied (with the method of principle components). (Previously displayed at Table 3: Trademark Characteristics Principal Components' Eigenvalues).

This criterion variable is in fact defined as summary valid variance in general sense of the examined latent space of trademark tests applied.

Table 128: Regression Analysis of the Reduced System of Variables in General Latent Dimension (Unique Principal Component- H) (Trademark Quality)

Factors	R	Part-R	Beta	Sig
CNF	-,058	-,057	,057	,409
CGF	-,105	-,102	-,103	,138
3rd factor	,190	,189	,189	,007

R	R Square	Sig.
,233	,054	,011

### 6.8. Canonical Correlation Analysis Between The Cognitive And Conative Variables And The Trademark Characteristics Variables

The canonical correlation analysis is applied as another method for determination of the association between the cognitive and conative variables and the trademark characteristics variables. In fact, the canonical correlation analysis was used to verify and supplement the findings on the relations between the consumers' cognitive abilities and conative features and trademark characteristics definition. Furthermore, the intention of the canonical correlation analysis is to enhance the exactness in the solution of the basic research aim.

Compared to regression analysis, canonical correlation directly transforms manifest variables into latent dimensions and examines and determines their causal relations, which is to some extent similar to factor analysis, thus providing higher scientific achievement of the researched problem.

Additionally, the appliance of canonical correlation analysis with sets of variates (factors), which is the case in our research, acquires a character of higher level analysis, i.e. one could consider it as "hierarchical canonical analysis".

Hence, canonical correlation analysis once more substantiates the relations between the isolated cognitive and conative factors and the trademark characteristics.

Having in mind the tendency for adequate number of variables in each set, due to the evident extreme difference in the number of manifest variables, i.e. the 9 cognitive and conative variables (IT\_1; IT\_2; ALPHA-7; EPSILON\_1; ETA\_2; DELTA\_1; HI\_1; SIGMA\_1; ALPHA-1), from one side, and the 79 trademark characteristics variables (TM 1-79) from another side, a canonical correlation analysis between the 9 cognitive and conative variables and the 79 trademark characteristics variables was not applied. For this reason of there is no canonical correlation applied for the 3 psychological factors and the 28 trademark characteristics primary factors.

Consequently, there were **5 canonical correlation analyses** applied (three in combined space and two in latent space):

- a) **Canonical correlation I, in combined space** (Table 1,2, 3 and 4 ), between the **9 cognitive and conative manifest variables** (IT\_1, IT\_2, ALPHA-7, EPSILON\_1, ETA\_2, DELTA\_1, HI\_1, SIGMA\_1, ALPHA-1) (as left set, set 1) and the **28 primary trademark characteristics** latent variables (factors) (F1-F28) (right set, set 2). Despite the 9:28 ratio, this canonical analysis is still methodologically acceptable since there are two pairs of statistically significant canonical factors isolated (Pair 1: pmCAN1a and tlCAN1a; pair2: pmCAN2a and tlCAN2a)), which derive from the cross-correlations between the variables of the two sets.
- b) **Canonical correlation II, in combined space,** (Tables), between the **9 cognitive and conative manifest variables** (IT\_1, IT\_2, ALPHA-7, EPSILON\_1, ETA\_2, DELTA\_1, HI\_1, SIGMA\_1, ALPHA-1) (as left set, set 1) and **the 11 secondary trademark characteristics** latent variables (factors) (**S1-S11**) (right set, set 2) . In this correlation there is one pair canonical factor isolated (pmCAN1b and tlCAN1b).
- c) **Canonical correlation III, in combined space** between the **9 cognitive and conative manifest variables** (IT\_1, IT\_2, ALPHA-7, EPSILON\_1, ETA\_2, DELTA\_1, HI\_1, SIGMA\_1, ALPHA-1) (as left set, set 1) **and the 4 tertiary trademark characteristics** latent variables (factors) (**T1-T4**) (right set, set 2) (Table ). In this correlation there is one pair canonical factors isolated (pmCAN1c and tlCAN1c).
- d) **Canonical correlation IV, in latent space** between the **3 psychological factors** (CNF, CGF and the 3rd factor) (as left set, set 1) and the **11 secondary trademark characteristics** latent variables (factors) (**S1-S11**) (right set, set 2) (Table) . There are three pairs of canonical factors isolated: Pair 1 (plCAN1d and tlCAN1d) ; Pair 2: plCAN2d and tlCAN2d; and Pair 3: plCAN3d and tlCAN3d.
- e) **Canonical correlation V, in latent space** between the **3 psychological factors** (CNF, CGF and the 3rd factor) (as left set, set 1) **and the 4 tertiary trademark characteristics** latent variables (factors) (**T1-T4**) (right set, set 2) (Table) . One pair of canonical factors is isolated in this correlation: plCAN1e and tlCAN1e.

**Canonical correlation I , between the 9 cognitive and conative manifest variables and the 28 primary trademark characteristics factors (F1-F28)**

Table 129 shows cross-correlations between the 9 cognitive and conative manifest variables and the 28 primary trademark characteristics factors. Most of the correlations are statistically significant, either positive or negative.

For instance, ALPHA-7 (Verbal Comprehension), has a statistically significant negative correlation (-0,25) with the F3 (Factor of distinctiveness (denominations) and figurative signs) trademark characteristics factor, but also a similar significant negative correlation (0,24) with the F8 (descriptiveness (ingredient or quality) and trade dress similarity) factor.

Similar associations are present at the conative test DELTA-1. It is correlated with the F27 (frequency of internet search engines use and cybersquatting factor with value (-0, 20), while with the F5 factor (0,17).

Such correlations are also noted between remaining manifest variables from the system of cognitive and conative variables and the trademark characteristics factors system.

**Table 129**

**Cross-correlations** between the 9 cognitive and conative manifest variables  
and the 28 primary trademark characteristics factors

	F1	F2	F3	F4	F5	F6	F7	F8	F9	F10	F11	F12	F13	F14
IT_1	-.06	-.07	-.08	.06	-.03	-.10	.06	.14	-.20	-.06	-.09	.01	.03	.05
IT_2	-.07	-.06	-.08	.07	.06	-.08	.07	.02	-.04	-.12	-.10	-.12	.17	-.08
ALPHA-7	-.08	-.17	-.25	.01	.09	-.07	.22	.24	-.03	-.11	-.15	.02	.10	-.17
EPSILON_1	-.16	.20	.16	.12	.12	-.02	-.14	-.14	.13	-.04	.09	-.09	.12	.20
ETA_2	.05	-.10	-.14	.06	.17	-.12	.08	.06	.02	-.01	-.09	-.09	.08	-.21
DELTA_1	.00	-.16	-.05	.13	.17	.03	-.02	.05	.01	-.06	-.09	-.11	.04	.00
HI_1	.07	-.12	-.09	.11	.04	-.04	.04	.11	-.01	-.03	-.08	-.10	.08	-.12
SIGMA_1	-.02	-.09	-.07	.26	.09	-.09	.02	-.04	.15	-.03	-.01	-.06	.08	-.02
ALPHA-1	-.01	-.07	-.10	.12	.08	-.12	.05	.04	-.02	-.04	-.06	-.16	.05	-.05

	F 15	F 16	F 17	F 18	F 19	F 20	F 21	F 22	F 23	F 24	F 25	F 26	F 27	F 28
IT_1	-.02	-.03	.01	-.04	-.05	-.03	.15	.03	.08	.00	-.03	-.05	.06	.00
IT_2	-.11	-.03	.02	-.07	-.07	-.03	.06	.05	.14	-.02	.03	.05	.14	-.01
ALPHA-7	-.14	-.06	-.10	-.12	-.02	-.08	-.14	.06	.00	.09	-.11	.02	-.05	.19
EPSILON_1	.05	-.07	.09	-.01	-.07	-.11	.21	-.07	-.05	-.09	.16	-.02	-.08	-.14
ETA_2	.03	.01	-.13	-.11	.03	.06	-.05	.02	.05	.03	-.08	.04	-.07	.16
DELTA_1	.03	.11	-.07	-.01	-.02	.00	.04	-.03	.02	.10	-.06	-.10	-.20	.18
HI_1	.15	.11	-.09	-.05	.01	-.05	.07	.00	-.02	.07	-.07	-.18	-.05	.16
SIGMA_1	-.01	.05	-.11	-.10	-.08	-.06	.13	-.10	.01	-.04	.10	-.05	-.09	.14
ALFA_1	.01	.15	-.09	-.15	-.04	.00	.01	-.05	.05	.00	.05	-.06	-.08	.16



This provided an assumption that different canonical factors exist, as well as that the relation between the canonical factors can be reasonably interpreted. Through the solution of the Eigenvalues (in canonical space), two statistically significant pairs of canonical functions, i.e. canonical latent dimensions (factors) are obtained. This is visible at Table 2: Canonical Eigenvalues Lambda ( $\lambda$ ), Canonical Correlation Coefficients, Chi-square test, Degrees of freedom (df), values of probability (Sig).

The significant value of the first pair of canonical factors is 0,00, which means that the probability of existence of this pairs of canonical factors is above 99%.

According to the value of the second pair of canonical factors (Sig=0,04) demonstrates that the probability of existence of this pairs of canonical factors is above 95%.

The statistical significance (Sig) is determined on the basis of the appliance of Bartlett's lambda test and its testing by Chi-square test.

**Table 130**

**Canonical Correlation Analysis I**

**Eigenvalues and Coefficients**

	Lambda ( $\lambda$ )	Canonical Correlation Coefficient (Rc)	Canonical Determination Coefficient (Rc2)	Chi-sqr.	df	Sig
1.	0,14	0,66	0,44	361,30	252,00	<b>0,00</b>
2.	0,25	0,56	0,31	254,16	216,00	<b>0,04</b>
3.	0,36	0,48	0,23	185,55	182,00	0,41
4.	0,47	0,43	0,19	137,90	150,00	0,75
5.	0,58	0,39	0,15	99,71	120,00	0,91
6.	0,69	0,36	0,13	69,54	92,00	0,96
7.	0,79	0,31	0,10	43,27	66,00	0,99
8.	0,88	0,27	0,07	24,19	42,00	0,99
9.	0,95	0,23	0,05	10,31	20,00	0,96

Analogously, the canonical correlation between the two systems of applied variables (cognitive-conative manifest system and the trademark characteristics system) is considerably high and reads 0,66. This proves that these two systems are statistically significantly highly associated.

This association is followed by the causal relationship, which is evident from the value of the Canonical Determination Coefficient (Rc2=0,44). This coefficient also makes feasible to determine the high level of influence of the cognitive and conative variables over the trademark factors.

The second canonical pair of factors has lower values of canonical correlation coefficient and the coefficient of canonical determination ( $R_c=0,56$ ,  $R_{c2}=0,31$ ). However, although a bit lower, this association is still significant at the level of 0,05. Consequently, the forthcoming canonical correlation analysis will refer to these two pairs statistically significant factors.

**Table 131**

**Structure of Canonical Factors in Cognitive and Conative Manifest Space (pmCANa)**

	pmCAN1a	pmCAN 2	CAN 3	CAN 4	CAN 5	CAN 6	CAN 7	CAN 8	CAN 9
IT_1	-0,06	-0,18	0,32	- 0,16	0,53	- 0,12	0,19	0,42	0,73
IT_2	0,20	-0,16	- 0,37	- 0,01	0,28	- 0,34	- 0,62	0,15	-0,66
AL_7	0,58	-0,44	0,08	0,38	0,15	0,29	0,56	-0,29	-0,20
EPSILON_1	-0,37	-0,55	0,30	0,72	0,09	- 0,27	0,14	-0,50	0,12
ETA_2	0,58	0,49	- 0,26	0,63	-0,30	- 0,66	- 0,22	0,04	0,78
DELTA_1	0,05	-0,32	0,60	0,50	-0,35	0,46	- 0,58	0,65	-0,13
HI_1	0,06	0,08	0,84	- 0,54	-0,06	- 0,84	0,26	-0,46	-0,41
SIGMA_1	-0,09	-0,27	- 0,84	- 0,58	-0,46	- 0,18	0,54	0,62	-0,01
ALFA_1	-0,25	-0,45	- 0,29	- 0,53	0,36	1,00	- 0,43	-0,83	0,15

Within the 1st pair of canonical factor (pmCAN1a and tlCAN1a;), the 1st psychological canonical factor (Table 131) is defined by the cognitive test ALPHA-7 (0,58) and by the conative test ETA-2 (0,58).

**Table 132:****Structure of Canonical Factors in Trademark Characteristics Latent Space (tICANa)**

	tICAN1a	tICAN2a	CAN 3	CAN 4	CAN 5	CAN 6	CAN 7	CAN 8	CAN 9
F1	0,07	0,32	0,02	-0,40	-0,19	-0,20	-0,09	0,07	0,01
F2_1	-0,23	0,07	-0,06	0,16	0,10	0,01	0,11	-0,52	0,28
F3_1	-0,31	0,12	0,03	0,11	-0,07	-0,05	-0,14	-0,03	-0,07
F4_1	-0,05	-0,43	-0,19	-0,29	-0,17	-0,16	0,07	0,21	0,04
F5_1	0,17	-0,18	0,08	0,46	-0,22	-0,12	-0,29	0,04	0,16
F6_1	-0,11	0,09	0,26	0,13	-0,13	0,15	-0,02	0,16	-0,42
F7_1	0,25	-0,07	-0,10	-0,07	0,15	0,05	0,22	-0,13	-0,04
F8_1	0,25	-0,10	0,30	-0,05	0,20	0,06	0,21	-0,13	0,11
F9_1	-0,05	-0,04	-0,28	0,10	-0,52	-0,17	0,24	-0,03	-0,34
F10	-0,07	0,21	-0,06	-0,09	-0,15	-0,01	0,08	-0,04	0,26
F11	-0,19	0,13	-0,12	-0,04	-0,10	0,04	0,11	-0,08	-0,04
F12	-0,06	0,26	-0,07	0,06	-0,05	0,03	0,52	0,35	0,10
F13	0,12	-0,24	-0,01	0,18	0,01	-0,36	-0,11	-0,14	-0,25
F14	-0,37	-0,27	0,21	0,03	0,16	0,36	0,09	0,16	0,07
F15	-0,06	0,11	0,39	-0,15	-0,19	-0,38	-0,08	-0,28	0,16
F16	-0,18	-0,01	0,10	-0,39	-0,14	0,30	-0,36	-0,21	-0,11
F17	-0,12	0,02	0,11	0,13	0,25	0,02	-0,14	-0,02	-0,22
F18	-0,15	0,17	0,16	0,14	-0,05	-0,04	-0,04	0,30	-0,21
F19	0,05	0,21	0,05	0,13	-0,11	-0,09	0,00	-0,20	0,08
F20	0,02	0,25	-0,17	0,06	-0,12	0,08	-0,34	0,16	0,29
F21	-0,24	-0,26	0,16	-0,09	0,08	-0,46	0,00	0,33	0,28
F22	0,12	0,09	0,13	0,12	0,18	-0,15	0,02	-0,01	-0,10
F23	-0,02	-0,10	-0,18	-0,09	0,18	-0,08	-0,40	0,25	0,06
F24	0,15	-0,01	0,24	0,06	-0,06	0,08	-0,06	0,03	-0,16
F25	-0,24	-0,18	-0,27	-0,16	0,02	0,15	0,03	-0,19	-0,09
F26	0,03	0,23	-0,37	0,33	0,08	0,07	-0,16	0,09	0,15
F27	0,02	0,28	-0,23	-0,30	0,33	-0,33	-0,07	0,01	-0,31
F28	0,23	-0,11	0,07	-0,16	-0,28	0,21	0,03	-0,07	0,05

Table 132 demonstrates that the 1st canonical trademarks factor is saturated with the 3rd trademark characteristics factor (F3) (factor of distinctiveness (denominations) and figurative signs) (0,31) and the (F14) (factor of bad faith trademark application) (-0,37).

Accordingly the analysis of Tables 3 and 4, demonstrate that in the **1st pair canonical factors (pmCAN1a & tlCAN1a)**, there is statistical significant association between the tests ALPHA-7 and ETA-2 from one side, and the trademark characteristics factors F3 and F14, from the other side.

**Having in mind the results, the subjects (consumers) that had higher achievements in ALPHA-7 (test for assessment of the efficiency of the serial processor; ) and ETA-2 (test for assessment of the system of integration of the regulation system;), do recognize better the distinctiveness of denominations and figurative signs as trademark characteristics.** This is visible from the positively oriented values (numbers) of ALPHA-7 and ETA-2, in relation to the negative (number) values of F3.

Despite that, the consumers that had better results in ALPHA-7 and ETA-2, have had weaker results in recognition of the factor of bad faith trademark application.

**Hence, better recognition of distinctiveness of denominations and figurative signs as trademark characteristic is noted consumers with higher efficiency of the serial processor as cognitive ability.**

Within **2nd canonical pair of factors (pmCAN2a & tlCAN2a)**, the 2nd psychological canonical factor **pmCAN2a** is dominantly defined by the test EPSILON-1 (-0,55) and by the conative test ALPHA-1 (-0,45). Furthermore, The 2nd trademarks canonical factor (**tlCAN2a**) is determined by the 1st trademark characteristics factor (F1) (0,32) and with the (F4): -0,43.

**Consequently, consumers with weaker regulation of the excitatory and inhibitory processes (EPSILON-1) and lower efficiency of the system of regulation and control of the personality defense functions (ALPHA-1); had at the same time weaker results in the recognition of the Trademark Guarantee Function.**

**On the other hand, consumers with better regulation of the excitatory and inhibitory processes (EPSILON-1) and higher efficiency of the system of regulation and control of the personality defense functions (ALPHA-1) have achieved lower recognition of the Trademarks Visual and Figurative Similarity Characteristics.**

**Canonical correlation II between the 9 cognitive and conative manifest variables and the 11 secondary trademark characteristics factors (S1-S11)**

Table 133 data loadings indicate several cross-correlations. The cognitive test ALPHA-7 ( ) for instance has a negative statistically significant correlation with S8 ( factor of bad faith trademark application and conceptual similarity) (-0,34), while with S1 (Copyright, Personality Rights and Telecommunications) the value is 0,22. ALPHA-7 is also cross-correlated with S11 (Factor of genericness) (-0,16) and with S3 ( ) (-0,13).

Similar correlations exist between the conative test EPSILON-1 and S1 (0,15), S2 (0,25), S8 (0,29) and S9 (-0,20).

**Table 133**

**Cross-correlations between the 9 cognitive and conative manifest variables and the 28 primary trademark characteristics factors**

	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11
IT_1	,13	,01	,00	-,11	,01	-,09	,04	,00	,12	-,05	-,04
IT_2	,12	-,06	-,11	-,21	,04	,07	,11	-,07	-,02	-,03	-,04
AL_7	,22	-,12	-,13	,00	,07	-,12	,15	-,34	,07	-,11	-,16
EPSILON_1	-,15	,25	-,12	-,09	,06	,08	-,10	,29	-,20	,06	-,01
ETA_2	,15	-,08	-,11	,09	,14	,05	,08	-,20	,07	,00	-,06
DELTA_1	,14	,02	-,02	,16	,22	,07	-,05	-,14	,00	-,01	-,02
HI_1	,12	,04	,01	,06	,13	,03	-,06	-,19	,11	-,02	-,06
SIGMA_1	,10	,14	-,12	,02	,22	,09	,07	-,03	-,05	,08	-,08
ALFA_1	,19	,04	-,12	,03	,14	,10	,04	-,13	,04	,05	-,03

The above correlations provided to attain one statistically significant pair of canonical latent dimensions (factors) (canonical latent dimensions (factors), evident from Table 134

**Table 134**  
**Canonical Correlation Analysis II**  
**Eigenvalues and Coefficients**

	Lambda ( $\lambda$ )	Canonical Correlation Coefficient (Rc)	Canonical Determination Coefficient (Rc2)	Chi-sqr.	df	Sig
1.	0,37	0,61	0,37	191,01	99,00	<b>0,00</b>
2.	0,59	0,43	0,19	100,90	80,00	0,06
3	0,73	0,34	0,12	61,22	63,00	0,54
4.	0,82	0,27	0,07	37,50	48,00	0,86
5.	0,89	0,23	0,05	23,46	35,00	0,93
6.	0,93	0,18	0,03	13,19	24,00	0,96
7.	0,97	0,13	0,02	6,68	15,00	0,97
8.	0,98	0,11	0,01	3,55	8,00	0,90
9.	0,99	0,07	0,01	1,05	3,00	0,79

The statistical significance (Sig) is a result of the value of the Chi-square test in relation to the size of the Degrees of freedom (df).

The significant value of the only one obtained pair of canonical factors is 0,00, which indicates the probability of existence of this pair of canonical factors is above 99%.

The Canonical Correlation Coefficient is high (Rc=0,61), with compatible Canonical Determination Coefficient (Rc2 =0,37).

Both coefficients outline high association between the cognitive and conative system of manifest variables and trademarks characteristics secondary factors system.

**Table 135**  
**Structure of Canonical Factors in Cognitive and Conative Manifest Space**  
**(pmCANb)**

	pmCAN 1b	pmCAN 2b	pmCAN 3b	pmCAN 4b	pmCAN 5b	pmCAN 6b	pmCAN 7b	pmCAN 8b	pmCAN 9b
IT_1	-0,03	0,15	0,16	0,61	0,30	0,54	-0,55	0,08	-0,30
IT_2	0,18	-0,37	0,41	-0,38	0,31	-0,65	-0,02	0,48	0,03
AL_7	0,56	-0,31	0,07	0,48	-0,61	-0,14	-0,03	-0,29	0,29
EPSILON_1	-0,51	-0,38	-0,10	0,51	-0,49	-0,43	-0,25	-0,35	-0,35
ETA_2	0,36	0,14	0,02	-0,40	-0,49	0,25	-0,01	0,13	-1,26
DELTA_1	0,10	0,05	-0,77	-0,25	-0,15	-0,30	-0,94	0,33	0,23
HI_1	-0,03	0,57	-0,15	0,82	0,31	-0,70	0,70	0,13	-0,21
SIGMA_1	-0,02	-0,59	-0,08	-0,02	0,16	0,83	0,64	0,71	0,25
ALFA_1	-0,03	-0,52	0,08	-0,22	0,71	0,02	-0,16	-1,22	0,56

**Table 135**

**Structure of Canonical Factors in Trademark Characteristics Latent Space (tICANb)**

	tICAN1b	tICAN2b	tICAN3b	tICAN4b	tICAN5b	tICAN6b	tICAN7b	tICAN8b	tICAN9b
S1	0,38	-0,24	-0,07	0,09	0,47	0,15	-0,57	-0,19	0,32
S2	-0,34	-0,25	-0,30	0,58	0,18	0,11	0,26	-0,16	0,34
S3	-0,19	0,58	-0,09	-0,01	0,21	0,08	0,06	0,59	0,42
S4	0,11	0,26	-0,69	-0,22	-0,32	0,41	-0,03	-0,27	-0,03
S5	0,12	-0,38	-0,53	0,09	0,07	0,02	-0,14	0,56	-0,27
S6	-0,14	-0,20	-0,22	-0,48	0,44	-0,37	0,23	0,06	-0,17
S7	0,24	-0,29	0,35	-0,26	-0,13	0,57	0,18	0,31	0,15
S8	-0,66	-0,11	0,17	-0,02	0,08	0,42	-0,46	0,12	-0,29
S9	0,23	0,36	0,07	0,27	0,55	0,25	0,19	-0,10	-0,56
S10	-0,19	-0,12	-0,06	-0,32	0,23	0,29	0,44	-0,22	0,11
S11	-0,14	0,16	-0,02	-0,42	0,30	-0,05	-0,34	-0,19	0,19

It is evident from tables 135 and 136, that the canonical factor from the system of cognitive and conative variables is defined by the manifest variables ALPHA-7 (0,56); EPSILON-1 (-0,51 ); and ETA-2 (0,36).

The canonical trademarks factor is saturated with the 1st trademark characteristics secondary factor (S1) (Copyright, Personality Rights and Telecommunications) (0,38) ; the 2nd trademark characteristics secondary factor (S2) (3-Dimensionality, identical or similar goods and services and public order and morality) (-0,34) and the 8th trademark characteristics secondary factor (S8) (Bad faith trademark application and conceptual similarity) (-0,66).

Having in mind the breakdown of Tables 7 and 8, it is obvious that within the **only pair canonical factors (pmCAN1b & tICAN1b)** , there is statistical significant association between the tests ALPHA-7 , EPSILON-1 and ETA-2 from one side, and the trademark characteristics factors S1, S2 and S8 from the other side.

**Consequently, consumers with higher efficiency of the serial processor (ALPHA-7) and better results in ETA-2 (assessment of the system of integration of the regulation system) were more capable to evaluate the S1 trademark characteristics factor.**

**Furthermore, consumers with weaker results in EPSILON-1 (regulation of the excitatory and inhibitory processes) had also weak results in the recognition of the S2 and S8 trademark characteristics factors.**

These relations can also be interpreted in their inverse variants, between the two systems in the canonical analysis tables.

**Canonical correlation III, between the 9 cognitive and conative manifest variables and the 4 tertiary trademark characteristics (T1-T4)**

The dataset on Table 137 illustrates existence of statistically significant correlations with positive and negative numbers. Such correlations are present at almost all cognitive and conative tests (except for IT-1) with some of the tertiary trademark characteristics factors.

This is most visible between EPSILON-1 ( ) and the T1 trademark characteristics factor (-0,31). EPSILON-1 has also a noticeable correlation with T4 (-0.30).

ETA-2 ( ) has statistically significant correlations with 3 factors: T1 (0,15); T2 (-0.16); and T4 (0,13).

Table 137  
Cross-correlations between the 9 cognitive and conative manifest variables and the 4 tertiary trademark characteristics factors

	T1	T2	T3	T4
IT_1	,08	-,03	,06	,06
IT_2	,08	-,17	,07	-,09
ALPHA-7	,27	-,21	,04	,15
EPSILON-1	-,31	,08	,04	-,30
ETA-2	,15	-,16	,04	,13
DELTA-1	,13	-,06	-,02	,05
HI-1	,15	-,06	,02	,07
SIGMA-1	,01	-,10	,14	-,06
ALPHA-1	,09	-,15	,11	,03

The subsequent processing of the cross-correlations has generated one pair of statistically significant canonical factors, indicated on Table 10. This pair is determined with probability of estimation of above 99% (Sig=0,000).



**Table 138**  
**Canonical Correlation Analysis III**  
**Eigenvalues and Coefficients**

	Lambda ( $\lambda$ )	Canonical Correlation Coefficient (Rc)	Canonical Determination Coefficient (Rc2)	Chi-sqr.	df	Sig
1	0,62	0,53	0,28	93,11	36,00	<b>0,00</b>
2	0,86	0,33	0,11	29,57	24,00	0,20
3	0,96	0,17	0,03	7,16	14,00	0,93
4	0,99	0,09	0,01	1,71	6,00	0,94

The canonical correlation of the only one pair of factor is considerably expressed (Rc=0,53) while its square reads 0,28.

**Table 139**  
**Structure of Canonical Factors in Cognitive and Conative Manifest Space**  
**(pmCANc)**

	pmCAN1c	pmCAN2c	pmCAN3c	pmCAN4c
IT-1	0,03	0,22	0,51	-0,18
IT-2	0,12	-0,57	-0,64	-0,20
ALPHA-7	0,36	-0,31	-0,22	0,14
EPSILON-1	-0,69	-0,10	-0,39	0,29
ETA-2	0,38	0,23	-0,03	1,06
DELTA-1	0,13	0,33	-0,77	-0,13
HI-1	0,03	0,40	-0,20	-0,75
SIGMA_1	-0,02	-0,59	0,70	-0,41
ALPHA-1	-0,13	-0,66	0,45	0,04

**Table 140**  
**Structure of Canonical Factors in Trademark Characteristics Latent Space**  
**(tlCANc)**

	tlCAN1c	tlCAN2c	tlCAN3c	tlCAN4c
T1	0,74	-0,02	-0,29	-0,62
T2	-0,35	0,69	0,30	-0,57
T3	-0,09	-0,56	0,76	-0,34
T4	0,54	0,47	0,58	0,40

Table 140 data loadings prove that the canonical factor from the system of cognitive and conative variables (pmCAN1C) is saturated by three tests: ALPHA-7 (0,36); EPSILON-1 (-0,69); ETA-2 (0,38).

The canonical trademark factor (tlCAN1c) is saturated by 3 out of 4 tertiary trademark characteristics factors: T1 (0,74); T2 (-0,35); and T4 (0,54).

Accordingly, Tables 11 and 12 indicate that the **only pair canonical factors (pmCAN1c & tlCAN1c)**, is characterized by association of ALPHA-7, EPSILON-1 and ETA-2 with T1, T2 and T4.

**On the grounds of the results, it is evident that the consumers (subjects) with high results in ALPHA-7 and ETA-2 have achieved higher results in the assessment of T1 and T4 trademark characteristics.**

**Parallel to this, consumers with lower results in EPSILON-1 would achieve lower results in recognition of the T2 trademark characteristics.**

**Hence, T1 and T4 are influenced by the efficiency of the serial processor and integration of the regulation system, while T2 is affected by regulation of the excitatory and inhibitory processes.**

Thus it is also that the high consumers' results in all three cognitive and conative tests facilitate the recognition of T1, T2 and T4 characteristics.

#### **Canonical correlation IV, 3 psychological factors (CNF, CGF and the 3rd factor) and the 11 secondary trademark characteristics latent variables (factors) (S1-S11)**

Table 141 shows eleven positive or negative statistically significant cross-correlations between the set of cognitive and conative latent dimensions (factors) and the secondary trademark characteristics latent variables (factors).

The majority of the cross-correlations is attributed to the cognitive factor (CGF): with S1 (-0,21); with the S2 (0,24); with S6 (0,13); with S7 (-0,12); with S8 (0,38) and with S9 (-0,20).

The conative factor (CNF) and the 3rd (bipolar) factor have less cross-correlation with the secondary trademark characteristics latent variables (factors). CNF has correlations with S1 (0,18); S5 (0,21); and S8 (-0,18). The 3rd factor has only two cross-correlations: with S1 (0,16) and with S4 (-0,20).

**Table 141**  
**Cross-correlations between the 3 psychological factors (CNF, CGF and the 3rd factor) and the 11 secondary trademark characteristics latent variables (factors) (S1-S11)**

	S1	S2	S3	S4	S5	S6	S7	S8	S9	S10	S11
CNF	,18	,04	-,10	,09	,21	,08	,02	-,18	,04	,02	-,07
CGF	-,21	,24	-,04	-,08	,02	,13	-,12	,38	-,20	,11	,06
3rd factor	,16	-,02	-,11	-,20	,04	-,02	,11	-,06	,04	-,05	-,08

In this canonical correlation analysis all three possible pairs of canonical factors are associated in statistically significant way. In the case of the first and the second pair of canonical factors, this association is statistically significant with probability of estimation of above 99% (Sig=0,00).

The statistical significance of the association at the third pair of canonical factors is at the level of 0,05 (Sig=0,04).

**Table 142**  
**Canonical Correlation Analysis IV**  
**Eigenvalues and Coefficients**

	Lambda ( $\lambda$ )	Canonical Correlation Coefficient (Rc)	Canonical Determination Coefficient (Rc2)	Chi-sqr.	df	Sig
1	0,53	0,59	0,35	123,86	33,00	0,00
2	0,81	0,33	0,11	40,45	20,00	0,00
3	0,91	0,30	0,09	17,96	9,00	0,04

The canonical correlation of the first pair canonical is quite high (Rc=0,59); for the second pair is 0,33, while for the third is 0,30. In accordance with the canonical correlation coefficients are the canonical determination coefficients for the three pairs of canonical factors (Rc2 is 0,35; 0,11 and 0,09 respectively).

**From scientific point of view, this canonical correlation (canonical correlation IV) provides largest quantity of information regarding , particularly from 2 aspects:**

- a) **As previously mentioned, from all possible pairs of canonical factors that might be obtained, all pairs in this canonical analysis are statistically significantly associated, by which the logical association of the mutual influence of the set of psychological factors and the set of trademark factors is particularly evident;**
- b) **The canonical correlation analysis is in latent space with regards to both sets : cognitive abilities and conative features (set 1) and trademarks characteristics (set 2).**

**Table 143**  
**Structure of Canonical Factors in Cognitive and Conative in Latent Space (pICANd)**

	pICAN 1d	pICAN 2d	pICAN 3d
CNF	0,34	-0,86	0,40
CGF	-0,90	-0,42	-0,10
3rd factor	0,15	-0,26	-0,96

**Table 144**  
**Structure of Canonical Factors in Trademark Characteristics in Latent Space (tICANd)**

	tICAN1d	tICAN2d	tICAN3d
S1	0,39	-0,34	-0,22
S2	-0,30	-0,41	0,06
S3	-0,10	0,41	0,26
S4	0,13	-0,01	0,83
S5	0,09	-0,64	0,14
S6	-0,17	-0,37	0,16
S7	0,17	0,04	-0,30
S8	-0,66	0,02	-0,24
S9	0,32	0,08	-0,02
S10	-0,20	-0,11	0,18
S11	-0,12	0,11	0,12

Table 143 indicates that the 1st canonical factor (pICAN1d) from the system of cognitive and conative set is highly saturated with the second factor (CGF) (-0,90).

Table 144 demonstrates that the 1st canonical trademark characteristics factor (t1CAN1d) is saturated by: S1 (0,39); S8 (-0,66).

Consequently, on the basis of the results the 1st pair of canonical factors (p1CAN1d and t1CAN1d), consumers that had lower results in the cognitive factor (CGF) had also weaker results in recognition of the S8 trademark characteristics factors.

**In other words, consumers with weaker cognitive abilities factor, achieve lower results in recognition of bad faith trademark application and conceptual similarity.**

The 2nd canonical factor (p1CAN2d) from the system of cognitive and conative set is defined with the 1st (conative) factor (CNF), with saturation of -0.86.

The 2nd canonical factor from the trademark factors set (t1CAN2) is saturated by: S2 (-0,41); S3 (0,41); S5 (-0,64); and S6 (-0,37). It is visible that t1CAN2 is defined with majority of trademark characteristics ( saturations with 4 out of 11 secondary trademark characteristics).

On the grounds of tables 14 and 15, it is apparent that in the 2nd pair canonical factors (p1CAN2d & t1CAN2d), subjects with lower CNF factor results, also had lower results in recognition of S2, S5 and S6 trademark characteristics. In spite of that, they achieved better results in recognition S3 trademark characteristic.

**Hence, consumers with lower conative features results, recognize less the secondary trademark characteristics: factor of three dimensionality, identical or similar goods and services and public order and morality (S2), Trademark Guarantee Function and Estimation of Product Quality (S5) and visual and figurative similarity, descriptiveness (ingredient or quality) and trade dress similarity (S6). Same consumers (with lower conative features results) recognize better the factor of deceptiveness (nature, quality and origin) and descriptiveness (value, purpose and origin) (S3).**

Similar to the previous two, the 3rd canonical factor (p1CAN3d) from the system of cognitive and conative set is highly saturated defined with the 3rd (bipolar) factor, with the so far highest saturation (-0,96). The 3rd canonical factor from the trademark factors set (t1CAN3d) is saturated by the S4 (0,83) and with the S7 (factor of distinctiveness of denominations and figurative signs and descriptiveness (time of production and technical characteristics) (-0,30).

Consequently, regarding the results from the 3rd pair of canonical factors (p1CAN3d and t1CAN3d), it is noticeable that consumers with lower values of the 3rd psychological factor had also lower results in recognition of the distinctiveness of denominations and figurative signs and descriptiveness (time of production and technical characteristics) , but higher results in recognition of the S4 factor.

**Canonical correlation V, between the 3 psychological factors (CNF, CGF and the 3rd factor) and the 4 tertiary trademark characteristics latent variables (factors) (T1-T4)**

It is evident from Table 17 that most cross-correlations are statistically significant. Most of these correlations are present for the CGF (cognitive) factor: with T1 (-0,35); T2 (0,14) and T4 (-0,31). Two of these are particularly noticeable (with T1 and T4).

The cross-correlation between the CNF (conative) factor and T1 is 0,14, while between CNF and T2 is -0,14.

The 3rd factor has only one statistically significant correlation: with the T2 (-0, 15).

**Table 145**  
**Cross-correlations between the 3 psychological factors (CNF, CGF and the 3rd factor) and the 4 tertiary trademark characteristics latent variables (factors) (T1-T4)**

	T1	T2	T3	T4
CNF	0,14	-0,14	0,07	0,05
CGF	-0,35	0,14	0,03	-0,31
3rd factor	0,10	-0,15	0,10	-0,03

Through the solution of the Eigenvalues (Table 18), only one pair of statistically significant factors of canonical correlation, with probable error less than 1% (Sig=0,000).

The canonical correlation coefficient between the two sets applied, regarding this pair of factor is expressed (Rc=0,51) and the canonical determination coefficient (Rc2) is 0,26.

**Table 146**  
**Canonical Correlation Analysis V**  
**Eigenvalues and Coefficients**

	Lambda ( $\lambda$ )	Canonical Correlation Coefficient (Rc)	Canonical Determination Coefficient (Rc2)	Chi-sqr.	df	Sig
1	0,71	0,51	0,26	68,79	12,00	0,00
2	0,95	0,21	0,05	9,26	6,00	0,16
3	1,00	0,01	0,00	0,04	2,00	0,98

Tables 147 and 248 indicate that the 1st canonical factor from the cognitive and conative set (plCAN1e) is highly saturated with CNF (0,30) and CGF (-0,93).

On the other hand, the 1st canonical trademark characteristics factor (tlCAN1e) is saturated by: T1 (0,74); T2 (-0,33) as well as with T4 (0,55).

**Table 147**

**Structure of Canonical Factors**

**in Cognitive and Conative in Latent Space (plCANe)**

	plCAN1e	plCAN2e	plCAN3e
CNF	0,30	0,45	-0,84
CGF	-0,93	0,32	-0,18
3rd factor	0,09	0,81	0,60

**Table 148**

**Structure of Canonical Factors in Trademark**

**Characteristics in Latent Space (tlCANe)**

	tlCAN1e	tlCAN2e	tlCAN3e
T1	0,74	0,10	0,44
T2	-0,33	-0,66	-0,10
T3	-0,07	0,53	-0,70
T4	0,55	-0,54	-0,60

Thus, on the grounds of the results the 1st pair of canonical factors (plCAN1e and tlCAN1e), one can assume that the subjects with higher conative results achieved higher results in the recognition of the T1, T2 and T4 tertiary trademark characteristics.

Furthermore, consumers with high results in the cognitive factor, at the same time had better results in recognition of the T2.

## 7. CONCLUSIONS

The definition of trademark characteristics is one of the key challenges of intellectual property research, particularly through the application of multivariate quantitative methods. In this context, the work encompasses determination and examination of trademarks' characteristics and their dependence on general and specific types of cognitive abilities and conative characteristics of consumers, endeavoring enclosure of impartial scientific findings into the legal standards, as prerequisite for efficient procedures for acquiring of the trademark right and legal proceedings on protection, as well as determination of trademark quality and assessment of trademark economic value.

Having in mind the analysis of trademark law developments and theoretical aspects, the concept of human cognitive abilities and conative characteristics, the preceding studies on trademarks and consumers and especially from the aspect of the aim of the research and the applied methods and the discussion of the results from the research, comprising the views for its potentials for subsequent development and application in the practice, several considerations have been synthesized with the regards to trademark characteristics and the consumers' anthropological status (including their intellectual abilities).

These considerations directly contribute for determination of the relations between the quality of trademarks and cognitive and conative variables of consumers, in the context of contemporary legal tendencies and current trademark functions in international and national legal and economic context.



Consequently, several conclusions could be derived:

1. In historical sense, even though in the laws of antiquity there were no trademarks rights in the contemporary meaning of the word, there is an emergence of certain legal sources specially in ancient Rome (*Lex Cornelia de falsis*; *Lex Cornelia de iniuriis*, etc.), and existence of numerous product marking examples (*fortis* –“strong”; *mano* –“by the hand of”; *officinal-*“workshop”; *fecit*–“made by”), that viewed from today’s perspective, indicate at least the need of legal regulation as a commercial necessity. Furthermore, inceptions of trademark protection are noted in middle age France and England, particularly regarding clothes, cutlery, printers, publishers and merchant marks. The continuous process of legal response during the centuries included key milestones, such as the French Manufacture and Goods Mark Act in 1857 and the English common law cases, with an outcome of the enactment of the Paris Convention for the Protection of Industrial Property in 1883, as the first international legal instrument.

2. Trademark types continue to “seduce” consumers. Various taxonomies through semiotic criteria or classifications or according to the right holder as a legal criterion point out the vivid, intense attractiveness of trademarks. Being creations of men, trademarks represent a human development feature and a reflection of the dynamic societal, legal, economic and even artistic human nature. As previously noted, trademarks are one of the finest proofs of the congruence of *homo faber*, *homo oeconomicus* and *homo pictor*.

3. The central position of the consumer and the interaction with the trademark as a tool that empowers him to distinguish the products or services on the market persists as a dominant category in the core of the contemporary trademark definition, confirmed by the up-to-date

international legal framework. This consistency is reiterated in the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union Trade Mark (codification) (OJ 2017 L 154, 8).

4. The research had an aim to determine the dependence of trademarks' characteristics (visual perceptibility, graphical representation, distinctiveness, non-genericness etc.), on general and specific types of cognitive abilities and conative characteristics of consumers from the general population, by application of numerous tests. Following hypotheses were established: 1) The cognitive and conative variables will have statistically significant relation with the results of the TM-1 test (trademark quality); 2) The higher degree of cognitive abilities of consumers will influence on successful determination of the trademark characteristics; and 3) The conative characteristics of consumers will have no influence on successful recognition of trademarks characteristics.

5. The research included a sample of 206 subjects that were tested with specially prepared battery of tests for evaluation of the quality of trademarks (TM-1) and contained 79 variables (presented registered and refused trademarks and related items), that were evaluated by the subjects through providing one of the five answers (Likert-type scale). The questions were constructed through commonly used requirements for trademark registration prescribed in: the Paris Convention for the Protection of Industrial Property ; the Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codification) (OJ 2017 L 154, 8); Commission Implementing Regulation of 18.5.2017 laying down detailed rules for implementing certain provisions of Council Regulation (EC) No 207/2009 on the European Union trade mark (C (2017)3224); the Agreement on Trade-Related

Aspects of Intellectual Property Rights (TRIPS); numerous national legislations (Macedonia, France, Germany, Albania, Mexico, Norway, Sweden, France, USA etc.), the Documents of the Standing Committee on the Law of Trademarks, Industrial Designs and Geographical Indications of the World Intellectual Property Organization; the Guidelines for Examination in the European Union Intellectual Property Office (EUIPO) on European Union Trade Marks; the ICANN Rules for Uniform Domain Name Dispute Resolution Policy, and other documents.

6. The subjects were also tested with : a) three cognitive tests: efficiency of the perceptual processor (IT-1); efficiency of the parallel processor (IT-2); and efficiency of the serial processor (ALPHA-7); and b) six conative tests: efficiency of the system of regulation and control of the personality defense functions ( $\alpha$ -1); efficiency of the system of regulation and control of the organic functions ( $\chi$ -1.); efficiency of the system of regulation and control the attack reaction ( $\sigma$ -1); assessment of the homeostatic regulation system ( $\delta$ -1); assessment of the system of integration of the regulation system ( $\eta$ -2); and test for regulation of the excitatory and inhibitory processes( $\varepsilon$ -1).

7. The data processing was realized with appropriate univariate and multivariate methods: basic descriptive statistical parameters (Mean, Standard Deviation, Coefficient of Variability); Correlation (Pearson Product Moment Correlation and Spearman's Rank Correlation Coefficient); Factor Analysis; Multivariate Regression Analysis in manifest and latent space; and Canonical Correlation Analysis in latent space.

8. Concerning the basic descriptive statistical parameters for the trademarks and cognitive and conative variables treated in the research, the mean values from the tests for assessment of the efficiency of the perceptual processor test and the efficiency of the serial processor, preliminary

demonstrated that subjects with higher results in these tests could perceive trademark characteristics in easier manner, since they have achieved higher results in their recognition. The lower means of the efficiency of the parallel processor test results, i.e. the fact that subjects achieved lower results, indicated lower degree of recognition of trademarks by these subjects, which seems understandable since this test is considered as more difficult compared to the two other tests. Higher relevance in determining the influence of conative features on recognition of trademark characteristics was noted regarding the system for integration of the regulation system, the homeostatic regulation system and the system of regulation and control of the organic functions, while lower relevance emerged re regulation of the excitatory and inhibitory processes and regulation and control the attack reaction, which is proven by the means of the appropriate results from these tests. Skewness and Kurtosis results (acceptable tolerances) demonstrated satisfactory results in terms of the normal distribution, i.e. it was methodologically justified to perform subsequent multivariate methods data processing.

9. Exploratory factor analysis was implemented for determination of the latent structure existence of the responses from the TM test, i.e. to verify the real existence of classification of trademark characteristics. The purpose was to clarify the factors of previously unapplied, unfactorized variables (trademarks). The exploratory factor analysis resulted with 28 primary isolated independent, autonomous factors that define different trademark characteristics, that to a large extent resemble definitions used in trademark law theory and practice. This factors are provisionally, conditionally nominated as: F1-trademarks visual and figurative similarity factor; F2; F3-factor of distinctiveness (denominations) and figurative signs; F4-factor of trademark guarantee function; F5; F6-factor of telecommunications products; F7-factor of stylized letters; F8-factor of descriptiveness (ingredient or quality) and trade dress similarity; F9; F10-color trademark factor; F11-copyright and personality rights factor; F12-factor of

social media regulation; F13-factor of religious symbols and geographical indications; F14-factor of bad faith trademark application; F15-factor of phonetical (aural) similarity; F16-trademark conceptual similarity factor; F17; F18-factor of deceptiveness (nature, quality and origin of product); F19-factor of description of value, purpose, origin of good or services; F20-generianness factor; F21-factor of three-dimensionality; F22-factor of identical or similar goods and services; F23- public order and morality factor; F24; F25-factor of description of time of production or technical characteristics of goods; F26-factor of Facebook user regulations awareness; F27-factor of frequency of internet search engines use and cybersquatting; and F28-factor of estimation of product quality. The number of factors indicates that the respondents had high attention during the assessment of the trademarks. The nomination of F2, F5, F9, F17 and F24 was constrained due to their partial (unclear) definition and presence of the tests with similar saturations in other factors, i.e. difficulties in the deciphering. This is understandable in the context of the exploratory role of the factor analysis and entails new researches, concerning the 23 nominated factors and for 5 innominate factors.

10. To achieve more comprehensive resolution of the research aim, a hierarchical (multi-level) factor analysis was applied, resulting with 11 trademark characteristics secondary factors (S1-S11), 4 tertiary factors (T1-T4), 2 quaternary factors (Q1-factor of trademark distinctiveness; and Q2-factor of trademark similarity) and one quinary clean and existing general trademark characteristics factor, named general trademark quality factor (TMQ).

11. Confirmatory factor analysis was implemented for the cognitive abilities and conative characteristics. It pointed out 3 latent dimensions (factors) that exist in the psychological space, defend by the applied space: general cognitive factor (CNF); general cognitive factor (CGF); and a 3rd bipolar factor. Upper level factorization resulted with a general cognitive-conative

(psychological) factor (GPF). Since the psychological factors are reasonably defined and unquestionable it is justified to search for their influence on the recognition and evaluation of trademarks.

12. The regression analysis in combined space was applied, where manifest cognitive and conative dimensions were taken as predictors (independent variables,) while the trademarks characteristics (factors, as latent dimensions) were criteria dimensions (dependent variables). It has shown statistically significant influence in the following trademark characteristics F2, F3, F5, F8, F9, F14, F15, F27 (primary factors), as well as S1, S2, S3, S4 and S8 (the secondary factors).

13. Furthermore, a regression analysis in latent space was used, which is even more important from methodological space, has proven the causal relationship, i.e. how the consumers' cognitive abilities and conative features (predictory latent dimensions) influence the trademark characteristics (criteria latent dimensions). This statistically significant influence is present for: F2, F3, F4, F7, F8, F14, F21, F25, F28; and S1, S2, S4, S5, S8, S9.

14. Both regression analyses types (in combined and latent space) have shown influences in T1, T2, T4 (tertiary factors); Q1 & Q2 (both quaternary factors) and TMQ (general trademark quality factor). More specifically, the regression analysis in latent space has particularly proven a predominant influence of the serial processor and the excitatory and inhibitory processes of consumers over the trademark quality (TMQ). With the regression analyses the existence of the factors, i.e. the fact that they were well isolate was proven once more.

15. For the purpose of overview of the relevance and the potential capacity of the regression analysis in terms of applicability in legal proceedings, following illustrative examples were observed: Bimbo/OHIM Case (C-591/12 P; ECLI:EU:C:2014:30); BioID AG/Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), (C-37/03 P; ECLI:EU:C:2005:547);L'Oréal SA, Lancôme parfums et beauté & Cie SNC, Laboratoire Garnier & Cie/Bellure NV, Malaika Investments Ltd, trading as 'Honey pot cosmetic & Perfumery Sales', Starion International Ltd Case (C-487/07; ECLI:EU:C:2009:378;FCUK, Trade mark Application Number: 2184549 (Case: 0-137-06); PAKI Logistics v OHIM (PAKI) (Case T-526/09; ECLI:EU: T: 2011:564);Case R 137/2000-1 (Decision of the First Board of Appeal of 30 November 2000 relating to Community trade mark application No 811281);Case R 566/2005-2 (Muswellbrook, Ltd. vs. Nike International, Ltd (Decision of the Board of Appeal relating to opposition proceedings No B 140 634 (Community trade mark application No 827 824);Case R 1215/2000-3 – HYPERLITE (Applicant H.O. SPORTS, INC);Heidelberger Bauchemie GmbH (C-49/02; ECLI:EU:C: 2004:384); 6.7.11.1. Chocoladefabriken Lindt & Sparingly AG v. Franz Hauswirth GmbH; (Case C-529/07; ECLI:EU:C: 2009:361); Case R 1335/2006-2; FANTASIA/FANTASIA (Applicant: Disney Enterprises, Inc.); Lloyd Schuhfabrik Meyer & Co. GmbH/Klijnsen Handel BV (Case C-342/97; ECLI:EU:C:1999:323); Unilever NV v. OHIM (Case T-194/01; ECLI:EU: T: 2003:53).

16. With the canonical correlation analyses applied (three in combined and two in latent space), following pairs of canonical factors were isolated: pmCAN1a and tlCAN1a; pmCAN2a and tlCAN2a; pmCAN1b and tlCAN1b; pmCAN1c and tlCAN1c; plCAN1d and tlCAN1d; plCAN2d and tlCAN2d; plCAN3d and tlCAN3d, plCAN1e and tlCAN1e. The canonical correlations has substantiated once more the relations between consumers' cognitive abilities

and conative features and the trademark characteristics, increasing the exactness in the achievement of the basic research aim.

17. Regarding the hypotheses of the research, from the above results obtained in this research through the application of the basic descriptive statistical parameters, the correlation, the factor analysis, the multivariate regression analysis and the canonical correlation analysis, it can be concluded that: 1) the first hypothesis that the cognitive and conative variables have statistically significant relation with the results of the TM test (trademark quality) is accepted; 2) the second hypothesis that the higher degree of cognitive abilities of consumers will influence on successful determination of the trademark characteristics, is also accepted; and 3) the third hypothesis that conative characteristics of consumers have no influence on successful recognition of trademarks characteristics is rejected; on the contrary, it was determined that trademark characteristics depend on conative features (personality traits).

18. For complete study of the issue of relations between quality of trademarks and cognitive and conative variables of consumers, it is indispensable to conduct further research. For instance, confirmatory factor analysis is needed, for assigning fixed names to the trademark characteristics factors. Generally, future researchers would include larger number and different type subjects (respondents) and numerous psychological and other tests that define the anthropological status of the respondents (including values system, knowledge and skills, professional background and other social factors). By application of tests with satisfactory measurement characteristics and specially with high validity and reliability of the tests, it will be possible to achieve more precise nomination of the factors and the definition of their structure, i.e. the recognition of trademark quality by consumers.



19. Within the scope of significance of the research results, numerous theoretical and practical opportunities arise. Firstly, in terms of empirical evidence, the research results and perspectives can be utilized in the trademark application, examination, opposition, appeal, litigation, dispute resolution and other related procedures. In all these proceedings, intellectual property offices, courts and other relevant entities, can implement more precise and unbiased approach, through use of models of valid and impartial quantitative and qualitative evidence, as a precondition for efficient, unprejudiced acquisition and higher level of enforcement of trademark rights, i.e. decreasing infringement cases. Secondly, this research could contribute to the inclusion of relevant of scientific results into the studies prepared for drafting of national legislation, international legal instruments, strategies for institutional reforms and programs and other initiatives related to protection of trademark rights. Thirdly, the research outcomes have economic importance: from the aspect of companies, particularly small and medium sized enterprises, creation of high quality trademarks and accurate valuation of trademark rights on the basis of findings on consumers cognitive abilities and conative features enhance for promotion of competitiveness and economic development. Fourthly, the research has an input for the consumers as a general public, in terms of raising the public awareness for trademark rights protection and for the professional and scientific public: the results could stimulate projection of interdisciplinary studies, having in mind the generalization emerging from the large sample size and measurement instruments comply with the needs of trademark functions.

20. Through outlining the character of law as a social category, legal science should reflect human perceiving and behavior, as a fundament of normative definition of trademark characteristics and regulation of trademark rights protection, in accordance with the famous legal maxim: *Hominum causa omne ius constitutum est* - Law has been created for the benefit of men (D.1.5.2).

## **LITERATURE**

### **Books and articles**

- Anten, T. (2006). In Defense of Trademark Dilution Surveys: A Post-Mosley Proposal, *Columbia Journal of Law and Social Problems*, 39(1), p.1-45. Available at: [http://ec.europa.eu/internal\\_market/indprop/docs/tm/20110308\\_allensbach-study\\_en.pdf](http://ec.europa.eu/internal_market/indprop/docs/tm/20110308_allensbach-study_en.pdf)
- Ashton, Michael C.; Lee, Kibeom; Perugini, Marco; Szarota, Piotr; de Vries, Reinout E.; Di Blas, Lisa; Boies, Kathleen; De Raad, Boele (2004). "A Six-Factor Structure of Personality-Descriptive Adjectives: Solutions From Psycholexical Studies in Seven Languages.". *Journal of Personality and Social Psychology*. 86 (2), p.356–366.
- Basire, Y. (2011). *Les fonctions de la marque, Essai sur la cohérence du régime juridique d'un signe distinctif* (Thèse), École doctorale de Droit, Science politique et Histoire, Université de Strasbourg, p.197.
- Basire, Y. (2017). *L'essentiel du Droit de la propriété industrielle*. Issy-les-Moulineaux: Gualino.
- Beebe, B. (2005). Search and Persuasion in Trademark Law . *Mich. Law Review*, 103, p.2020.
- Beebe, B. (2016). *Trademark Law: An Open-Source Casebook*, Available online at: <http://tmcasbook.org/>
- Beebe,B.(2006), An Empirical Study of the Multifactor Tests for Trademark Infringement. *California Law Review*, 94, 6, p.1581-1654.

- Belson, J. (2017). *Certification and Collective Marks, Law and Practice*. Edward Elgar: Cheltenham- Northampton, p.40.
- Bergman O., Ellingsen , T., Johannesson, M., Svensson, C. (2010), *Anchoring and Cognitive Ability, Economics Letters* ,107, 66-68.
- Bergson, H. (1907). *L'Évolution créatrice* (1907), Éd. PUF, coll. « Quadrige », 2007 (édition critique), chap. 138-140.
- Bettinger, T., Waddel, A. (2015). *Domain Name Law and Practice, An International Handbook*. New York: Oxford University Press.
- Blakeney, M. (2006). *Controversial Aspects of GIs, Queen Mary Intellectual Property Research Institute*. Available at: <http://slideplayer.com/slide/10758330/>
- Blakeney, M.(.). *Geographical Indications and TRIPS, Occasional Paper 8, Friends World Committee for Consultation, Quaker United Nations Office – Geneva, p.4*. Available at: <http://www.quno.org/sites/default/files/resources/Geographical-Indications.pdf>
- Bottero, N., Mangani, A., Ricolfi, M. (2007). *The Extended Protection of “Strong Trademarks”*. *Marquette Intellectual Property Law Review*, 11(2), p.266-289.
- Bowen, D.C. (1959). *Trademarks and Psychology*. *Journal of the Patent Office Society*, 41(10), 633-741.
- Broadbent, D.E. (1971). *Decision and stress*. London: Academic Press.
- Brody, J.P. (2015). *Reprotection for Formerly Generic Trademarks*. *The University of Chicago Law Review*, 2(1), p.475-516.
- Bukljaš, I. (1965). *Pravo industrijskog vlasništva [Industrial Property Law. In Croatian]*. Zagreb. Progres.
- Capon, N., Davis, S. (1984). *Basic Cognitive Ability Measures as Predictors of Consumer Information Processing Strategies*, *The Journal of Consumer Research*, 11, p.551-563.

- Carroll, J.B. (1993). *Human Cognitive Abilities. A Survey of Factor-Analytic Studies*. New York: Cambridge University Press, p. 577-629.
- Chever, T., Renault, T., Renault, S., Romieu, V. (2012). Value of production of agricultural products and foodstuffs, wines, aromatized wines and spirits protected by a geographical indication (GI) (External Study). AND International. Available at: [https://ec.europa.eu/agriculture/external-studies/value-gi\\_en](https://ec.europa.eu/agriculture/external-studies/value-gi_en)
- Christie, A. (2000). *The ICANN Domain Name Dispute Resolution System: A Model for other Transborder Intellectual Property Disputes on the Internet?*, International Conference on Dispute Resolution in Electronic Commerce, Organized by the WIPO Arbitration and Mediation Center, Geneva, November 6 and 7, 2000.
- Conrad, A. (1996) 'The Protection of Geographical Indications in the TRIPS Agreement', *Trademark Reporter*, 86 (11), p. 13-14 .
- Corea, C. (2007). *Trade Related Aspects of Intellectual Property Rights. A Commentary to the TRIPS Agreement*, New York: Oxford University Press, p. 174.
- Curtin, T.J. (2010). *The Name Game: Cybersquatting and Trademark Infringement on Social Media Websites*, *Journal of Law and Policy*, 19 (1), p.353-394.
- Das, J.P., Kirby, J., Jarman, R.F. (1975). *Simultaneous and Successive Syntheses: An Alternative Model for Cognitive Abilities*. *Psychological Bulletin*, 82(1), p. 87-103.
- Diamond, S.S., Franklyn, D.J.(2014), *Trademark Surveys : An Undulating Path*, *Texas Law Review*, 92, p. 2029-2074.
- Diamond, S.A. (1983). *The Historical Development of Trademarks*. *The Trademark Reporter* 73(3), p.226.
- Digital Macedonian Dictionary (Accessed 28.08.2017), available at: <http://www.makedonski.info/>
- Divković, M.(1988). *Latinsko-hrvatski rječnik za škole [Latin-Croatian Dictionary for Schools: In Croatian]*. Zagreb:Naprijed, p. 199-200.

- Drescher, T.D. (1992). The Transformation and Evolution of Trademarks: From Signals to Symbols to Myth. *The Trademark Reporter* 82(3), p.131.
- English, H.B., English, A.C (1958). *Comprehensive dictionary of psychological and psychoanalytical terms*. New York: David McKay Co., p.234.
- Eysenck, H. J. & Eysenck, S. B. G. (1976). *Psychoticism as a Dimension of Personality*. London: Hodder and Stoughton.
- Fossa, F. (2015). Image-making and the Freedom of Man. *Vision, Image and Symbol Homo Pictor and Animal Symbolicum in Hans Jonas' Anthropology*. *Aisthesis*, 8(2), p. 165 -182.
- Fromer, J.C, Lemley, M.A.(2014), *The Audience in IP Infringement*, *Michigan Law Review*, 112, 1252-1304.
- Greenberh, A.S. (1951). The Ancient Lineage of Trade-Marks. *Journal of the Patent Office Society*, 33(12), p.879.
- Griffiths, A. (2003). Quality in European Trade Mark Law. *Northwestern Journal of Technology and Intellectual Property*, 11(7), p.621-640.
- Hassler, T. (2014). La sophistication du droit de la propriété intellectuelle. Le droit de de la propriété intellectuelle dans un mond globalisé. *Mélanges en l'honneur du professeur Joanna Schmidt-Szalewski*, Collection du CEIPI, No.61, p.193-206.
- Hassler, T. (2008). L'image d'une personne dans sa vie professionnelle, *Petites Affiches*, 18 décembre 2008.
- Hassler, T. (2019). T. Liberté d'expression contre respect de la vie privée et du droit à l'image : un arrêt tout en dentelle, *RLDI* juin 2010.
- Huitt, W., & Cain, S. (2005). An overview of the conative domain. *Educational Psychology Interactive*. Valdosta, GA: Valdosta State University. Retrieved [07.08.2017] from <http://www.edpsycinteractive.org/brilstar/chapters/conative.pdf>

- Iguchi, H., Abe, K., Misawa, T., Kimura, H. & Daido, Y. (2009). Recognition of Grouping Patterns in Trademarks Based on Gestalt Psychology. *Electronic and Communications in Japan*, 92 (10), p.844-853.
- Jacoby, J. (2001). The Psychological Foundations of Trademark Law: Secondary Meaning, Genericism, Fame, Confusion and Dilution. *Trademark Reporter*, 91, p.1013-1071.
- Janić, M. (1973). *Industrijska svojina i autorsko pravo* [In Serbian], Službeni list SFRJ, Beograd, p.161
- Killian, M. (2000). Cybersquatting and Trademark Infringement, *E- law*, vol 7, N 3.
- Kole, P. (2007) *Geographical Indications: Creating Value through Connecting Products with Geographical Origin*, WIPO International Symposium on GIs, June 2007, Beijing, China.
- Kur, A. (2013). *Evaluation of the Functioning of the EU Trademark System: The Trademark Study. Constructing European Intellectual Property. European Intellectual Property Institutes Network Series*. Cheltenham, UK, Northampton, MA, USA: Edward Elgar, p. 123-136.
- Kur, A. (2014). Trademarks Function, Don't They? *CJEU Jurisprudence and Unfair Competition Principles*, *International Review of Intellectual Property and Competition Law*, 45 (2014), p. 434-454.
- Kuwayama, Y. (1988). *Trademarks and Symbols of the World, The Alphabet in Design*. Rockport: Rockport .
- Ladas, S.P. (1975). *Patents, Trademarks, and Related Rights: National and International Protection*, Vol. I, Harvard University Press, Cambridge, p. 4.
- Lee, T.R., Christensen, G.L., DeRosia, E.D. (2008), *Trademark Consumer Psychology, and the Sophisticated Consumer*, *Emory Law Journal*, 57, p.575.

- Leeds, D. (1956). Trademarks from the Government Viewpoint, *California Law Review*, Vol. 44, Issue 3, p.497.
- Lehner, E. (1950). *Symbols, Signs and Signets*. New York: Dover Publications.
- Liefeld, J. (2003). How Surveys Overestimate the Likelihood of Consumer Confusion. *Trademark Reporter*, 93, 939-963.
- Lipton, J.P. (1988). A New Look at the Use of Social Science Evidence in Trademark Litigation, *Trademark Reporter*, 78, p.32.
- Lloyd, I. J. (2004). *Information Technology Law*, Oxford.
- Luria, A.R. (1971). The Origin and Cerebral Organization of Man's Conscious Actions. *Proceedings of the Nineteenth International Congress of Psychology, London, 1969* (p.37-52). International Union of Scientific Psychology and the British Psychological Society.
- Manning Magid, J., Cox, A.D., Cox, S.D. (2006), Quantifying Brand Image: Empirical Evidence of Trademark Dilution, *American Business Law Journal*, 43 (1), p.1-42.
- May, C. , Sell, S. K. (2006). *Intellectual Property Rights: A Critical History*, Boulder, CO: Lynne Rienner Publishers, p. 47.
- McKenna, M.P. (2012). A Consumer Decision-Making Theory of Trademark Law. *Virginia Law Review*, 98 (3), p.67-141.
- Meng, C. & Ma, Q. (2014). The Analysis of Trademark Disputes in China-A Cognitive Perspective. *The Fourth International Conference On Law, Language and Discourse (LLD)* , Xi'an, China, 2014, (pp.103-1080, Marietta, Georgia: American Scholars Press.
- Mollerup, P. (2013). *Marks of Excellence*. London: Phaidon, p. 101.

- Momirović (1998). Standardizacija Baterije KOG3 za ispitanike stare 15 godina [Standardization of KOG3 Battery for Subjects at the Age of 15. In Serbian]. Beograd: Centar za primenjenu psihologiju društva psihologa Srbije.
- Momirović, K. (1982). Prilog formiranju jednog kibernetičkog modela strukture konativnih faktora. [A Contribution to the Formation of a Cybernetic Model for the Structure of Conative factors. In Croatian]. Kineziologija, 14 (5), p.83-108.
- Momirovic, K., Bosnar, K. & Horga, S. (1982). Kibernetički model kongitivnog funkcioniranja: Pokušaj sinteze nekih teorija o strukturi kognitivnih sposobnosti. [A Cybernetic Model of Cognitive Function: An Attempt at a Synthesis of Certain Theories on the Structure of Cognitive Abilities. In Croatian]. Kineziologija, 14 (5), p.63-82.
- Momirović, K., Wolf, B., Džamonja, Z (1998). KON 6 Kibernetička baterija konativnih testova [Cybernetic Battery of Conative Tests. In Serbian]. Centar za primenjenu psihologiju Društva psihologa Srbije: Beograd, p. 9-12.
- Naumovski, G. (2010). Geographical Indications in Macedonian Law. In: Research Papers from the WIPO-WTO Colloquium for Techer of Intellectual Property Law, p. 69-77. WIPO: Geneva.
- Naumovski, G. (2011). Osnovnite instituti na rimskoto krivicno parvo [Basic Institutes of Roman Criminal Law: In Macedonian]. Zbornik vo cest na Gjorgji Marjanovic, Praven fakultet "Justinijan Prvi" Skopje, p.332.
- Naumovski, G., Chapkanov, D. (2016). Empirical Analysis of Trademark Perception of Students Enrolled at Legal and Economic Studies in the Republic of Macedonia. Proceedings of the 9th Annual International Conference of Education, Research and Innovation, Seville, 2016 (p.7634-7639). International Academy of Technology, Education and Development.



- Naumovski, G., Naumovski, V., Polenak-Akimovska M. (2011). Cybersquatting in the Social Networks, Additional Challenge for Sports Law. *Research in Kinesiology* 39 (2), p. 159-163.
- Naumovski, G., Popovic, D. (2012). *Information Technology Law*. Tempus project 144582. Skopje: SS.Cyril and Methodius University;
- Naumovski, G., Akimovska, P. M., Stojkov, A.(2011). A Review of Certain Cases Under the Uniform Domain Name Dispute Resolution Policy (UDRP) with reference to Sports Domain Names. *Research in Kinesiology*, 39(1), p.23-30.
- Nugent, Pam M.S. (2013). Guildford-Zimmerman Temperament Survey (GZTS), in: *PsychologyDictionary.org*, May 11, 2013, <https://psychologydictionary.org/guilford-zimmerman-temperament-survey-gzts/> (accessed August 7, 2017).
- Olivas, E. (2007). Perspectives for Geographical Indications, WIPO International Symposium on GIs, Beijing, China, June 2007.
- Paster, B.G. (1969). Trademarks: Their Early History. *The Trademark Reporter* 59(8), p.554.
- Pepeljugoski, V. (1996). Zastita na industriskata sopstvenost: so modeli na obrasci [Protection of Industrial Property: With Models and Sample Forms: In Macedonian]. Akademik, Skopje, p. 12.
- Persky, J. (1995). Retrospectives: The Ethology of Homo Economicus. *The Journal of Economic Perspectives*, 9(2).
- Pesochinsky, Z. (2010). Almost Famous: Preventing Username-Squatting on Social Networking Websites, *Cardozo Arts & Entertainment*, 28(1), p.223-253.
- Peter, J.P., & Olson, J.C.(2010). *Consumer Behavior and Marketing Strategy*. New York: McGraw-Hill Irwin, p.55.

- Petz, B. (2010). Uvod u psihologiju [Introduction to Psychology. In Croatian]. Jastrebarsko: Naklada Slap, p. 24-27.
- Polenak Akimovska, M., Buckovski, V., Naumovski, G., Gavrilovik, N. (2016). Niakoi paraleli mezdju pravtata na intelektualna sopstvenost v rimskoto I v sovremeneoto parvo i pospecialno odnosno avtorskoto i pravoto na trgovska marka [Certain Parallels Between Intellectual Property Rights in Roman and Contemporary Law With Reference to Copyright and Trademark Law: In Bulgarian], *Ius Romanum II*.
- Polenak Akimovska, M., Dabovik Anastasovska, J., Buckovski, V., Pepeljugoski, V., Varga, L. (2005). Pravo na industriska sopstvenost [Industrial Property Law. In Macedonian]. Drzaven zavod za industriska sopstvenost, Skopje, p. 326.
- Polenak Akimovska, M.; Naumovski, G. (2010). Geographical Indications in Comparative and Macedonian Legislation. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 85-98), *Introduction to Trademarks and Geographical Indications*, Skopje, Iustinianus Primus Law Faculty.
- Polenak Akimovska, M.; Naumovski, G. (2010). Individual, Collective and Certification Trademark. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 9-12), *Introduction to Trademarks and Geographical Indications*, Skopje, Iustinianus Primus Law Faculty.
- Polenak Akimovska, M.; Naumovski, G. (2010). The Relationship between Trademarks and Domain Names. In: Reboul, Y., Polenak Akimovska, M., Naumovski G. (p. 55-65), *Introduction to Trademarks and Geographical Indications*, Skopje, Iustinianus Primus Law Faculty.
- Rogers, E.S. (1910). Some Historical Matter concerning Trade-Marks. *Michigan Law Review*, 9(1), p.33.
- Ruston, G. (1955). On the Origin of Trademarks. *The Trademark Reporter* 45(2), p.133.

- Sappa, C. (2007). Geographical Indications: Strategic Use and Economic Value in the Wines and Spirits Sector, Strategic Use of IPRs for Economic and Social Development Ohrid, May 21st, 2007.
- Schatz, P. (2017). Saint Joseph's University Neuropsychology, Psy 2121, Course Information: A Neuropsychological Framework: Luria's Working Brain. Available at: <http://schatz.sju.edu/neuro/luria/luria.html>
- Schechter, F.I. (1999). The Historical Foundations of the Law Relating to Trade-marks. New Jersey: The Lawbook Exchange.
- Scheler, M. (1928). Die Stellung des Menschen im Kosmos. CreateSpace Independent Publishing Platform.
- Schmidt-Szalewski, J. (1999). The International Protection of Trademarks After the TRIPS Agreement. Duke Journal of Comparative and International Law, 9, p. 189-212.
- Schmidt-Szalewski, J. (2007). Droit de la propriété industrielle, Paris, Lexis Nexis, Litec, p. 193.
- Silber, N.I (1990). Observing Reasonable Consumers : Cognitive Psychology, Consumer, Behavior and Consumer Law. Loyola Consumer Law Reporter, 2(3), p.69-75.
- Simjanovski, S. (2009). Trgovska marka, Apsolutni i relativni pričini za odbivanje na prijavata za pravoto na trgovska marka [Absolute and Relative Grounds for Refusal of Application for Trademark Right. In Macedonian]. Skopje: State Office of Industrial Property.
- Simonson, A.F. (1993). How and When do Trademarks Dilute: A Behavioral Framework to Judge “Likelihood” of Dilution, Trademark Reporter, 83, p.149.
- Simonson, I. (1993): The Effect of Survey Methods on Likelihood of Confusion Estimates: Conceptual Analysis and Empirical Test, Trademark Reporter, 83, 364, p.366-73.

- Spencer, K.L. (2011). Evaluating Trademark Design. San Jose State University SJSU Scholar Works, Available at:  
[http://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=4952&context=etd\\_theses](http://scholarworks.sjsu.edu/cgi/viewcontent.cgi?article=4952&context=etd_theses).
- Sternberg, R.J. (2005). Kognitivna Psihologija [Cognitive Psychology: In Croatian]. Jastrebarsko: Naklada Slap, p.25-26.
- Study on the Overall Functioning of the European Trade Mark System. Max Planck Institute for Intellectual Property and Competition Law Munich.15.02.2011.
- Swann, J.B. (2006). An Interdisciplinary Approach to Brand Strength, Trademark Reporter, 96, p.943-976.
- Sylvander, B. (2007). Protecting GIs: An International Comparison of Schemes and Systems, Conference «Food Quality Certification –Adding Value to Farm Products, Brussels, February 2007.
- Tang, X. (2016). The Artist as Brand: Toward a Trademark Conception of Moral Rights. The Yale Law Journal, 122 (1). p.218-255.
- Vaccaro, C.S. (2012). Distintividad y Uso de las Marcas Comerciales .Revista Chilena de Derecho, 39(1), pp.9 - 31.
- Verona, A. (1978). Pravo industrijskog vlasništva, Informator [Industrial Property Law :In Croatian], Zagreb, p.11.
- Vukmir, M. (1992).The Roots of Anglo-American Intellectual Property Law in Roman Law. IDEA: The Journal of Law and Technology 32(2), p.131.
- Waelde, C., Brown, A., Kheria, S., Cornwell, J. (2016). Contemporary Intellectual Property Law and Policy. New York: Oxford University Press, p.683.
- Walker, L., Monahan, J.(1988), Social Facts: Scientific Methodology as Legal Precedent, California Law Review, 76 (4), p.877-896.
- Weckerle, H. (1968). Typographer as Analyst. Design Magazine, no.42.

Werkman, C.J. (1974), Trademarks. Their Creation, Psychology and Perception, New York: Barnes and Noble.

WIPO (2016). The Madrid System for the International Registration of Marks: Objectives, Main Features, Advantages, p. 11. Available at: [http://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_418\\_2016.pdf](http://www.wipo.int/edocs/pubdocs/en/wipo_pub_418_2016.pdf) .

WIPO (2017). Introduction to Intellectual Property, Theory and Practice, Wolters Kluwer: Aalphen aan den Rijn, p. 245.

Wolf, B.; Momirović, K.; Džamonja, Z. (1992). KOG: Baterija testova inteligencije [Battery of Intelligence Tests: In Serbian]. Beograd: Centar za primenjenu psihologiju.

Wright, D.J. (2013). Explicitly Explicit: The Rogers Test and the Ninth Circuit. Journal of Intellectual Property Law, 21(1), p.193-221.

Young, L.W. (2016). Understanding Michael Jordan v. Qiaodan: Historical Anomaly or Systemic Failure to Protect Chinese Consumers? Trademark Reporter, 106 (5), p.883-914.

Zaichkowsky, J.L. (2006). The Psychology Behind Trademark Infringement and Counterfeiting, Mahwah, New Jersey and London: Lawrence Erlbaum Associates.

Zeisel, H., & Kaye, D.(1997). Prove it with Figures. Empirical Methods in Law and Litigation. New York: Springer, p.147-174.

### **International conventions and agreements:**

-Paris Convention for Protection of Industrial Property (1883)

-Madrid Agreement Concerning the International Registration of Marks (1891) and the Protocol Relating to the Madrid Agreement (1989)

-Trademark Law Treaty (1994)

-Singapore Treaty on the Law of Trademarks (2006)

- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957)
- Vienna Agreement Establishing and International Classification of the Figurative Elements of Marks (1973)
- Agreement on Trade-Related Aspects of Intellectual Property Rights (“TRIPS”) (1994)
- Regulation(EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (codification) (OJ 2017 L 154, 8);
- Commission Implementing Regulation of 18.5.2017 laying down detailed rules for implementing certain provisions of Council Regulation (EC) No 207/2009 on the European Union trade mark (hereinafter EUTMIR (C (2017)3224).

### **National Legislations**

- Law on Industrial Property (Official Gazette of the Republic of Macedonia No. 21/2009 & 24/11).
- Act on the Protection of Trade Marks and other Symbols of 25 October 1994 (Federal Law Gazette [BGBl.] Part I p. 3082, as last amended by Art. 3 of the Act of 19 October 2013, Federal Law Gazette (Bundesgesetzblatt) Part I;
- Industrial Property Law of Albania (Nr. 9947 dated 07.07.2008, as amended, No.10/2013, date 14.02.2013, No.55/2014, date 29.05.2014, No.17/2017, date 16.02.2017. );
- Law on Industrial Property of Mexico (Official Gazette of Mexico, amended version published on April 2, 2012);
- 15 U.S.C. 1064 (SECTION 14 OF THE LANHAM ACT);
- French Intellectual Property Code /Code de la propriété intellectuelle (version consolidée au 11 mai 2018). Available at:  
<https://www.legifrance.gouv.fr/affichCode.do?cidTexte=LEGITEXT000006069414&dateTexte=20180521>

-Norwegian Trademarks Protection Act. Available at:

<https://www.patentstyret.no/en/norwegian-trademarks-act>

-Swedish Trademark Act.

Available at:[http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/varumarkeslag-20101877\\_sfs-2010-1877](http://www.riksdagen.se/sv/dokument-lagar/dokument/svensk-forfattningssamling/varumarkeslag-20101877_sfs-2010-1877)

-Rulebook for Arbitration Procedure for Dispute Resolution in the cases of domain registration, available at: <http://marnet.mk/doc/pravilnik-mk-mkd.pdf>

-Anticybersquatting Consumer Protection Act (ACPA), 15 U.S.C. § 1125(d).

-Trade Marks Act of Estonia (Passed 22.05.2002, RT I 2002, 49, 308, Entry into force 01.05.2004). Available at:

<https://www.riigiteataja.ee/en/eli/ee/RK/a/518112013005/consolide/current>

## **Jurisprudence**

### **I. Court Decisions**

-Davidoff & Cie SA and Zino Davidoff SA v Gofkid Ltd., Reference for a preliminary ruling: Bundesgerichtshof - Germany (C-292/00; ECLI:EU:C:2003:9).

- FANTASIA/FANTASIA (Applicant: Disney Enterprises, Inc., Case R 1335/2006-2);

- HYPERLITE (Applicant H.O. SPORTS, INC;Case R 566/2005-2 -Case R 1215/2000-3) ;

- Rewe-Zentral v OHIM (LITE) [2002] ECR II-705 (Case T-79/00 ;ECLI:EU:T:2002:42);

- Unilever NV v. OHIM (Case T-194/01; ECLI:EU: T: 2003:53);

-Bimbo/OHIM Case (C-591/12 P; ECLI:EU:C: 2014:30);

-BioID AG/Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), (C-37/03 P; ECLI:EU:C:2005:547);

-Chocoladefabriken Lindt & Sparingly AG v. Franz Hauswirth GmbH; (Case C-529/07; ECLI:EU:C: 2009:361);

- Copad SA v Christian Dior couture SA, Vincent Gladel, as liquidator of Société industrielle lingerie (SIL), Société industrielle lingerie (SIL) (C-59/08, :EU:C:2009:260).
- Consorzio per la Tutela del Formaggio Gorgonzola And Käserei Champignon Hofmeister GmbH & Co. KG, Eduard Bracharz GmbH, on the interpretation of Articles 30 and 36 of the EC Treaty (Case C-87/97; ECLI:EU:C:1999:115).
- FCUK, Trade mark Application Number: 2184549 (Case: 0-137-06);
- Glaverbel SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (C-445/02 P; ECLI:EU:C:2004:393);
- Heidelberger Bauchemie GmbH (C-49/02; ECLI:EU:C: 2004:384);
- L'Oréal SA, Lancôme parfums et beauté & Cie SNC, Laboratoire Garnier & Cie/Bellure NV, Malaika Investments Ltd, trading as 'Honey pot cosmetic & Perfumery Sales', Starion International Ltd Case (C-487/07; ECLI:EU:C:2009:378);
- Lloyd Schuhfabrik Meyer & Co. GmbH/Klijnsen Handel BV (Case C-342/97; ECLI:EU:C:1999:323);
- Muswellbrook, Ltd. vs. Nike International, Ltd (Decision of the Board of Appeal relating to opposition proceedings No B 140 634 (Community trade mark application No 827 824);
- PAKI Logistics v OHIM (PAKI) (Case T-526/09; ECLI:EU: T: 2011:564);
- Puma/Sabel (Case C-251/95 , Judgment; ECLI:EU:C:1997:528; Opinion: ECLI:EU:C:1997:221);
- Arsenal Football Club plc v Matthew Reed. (Case C-206/01, ECLI:EU:C:2002:651);
- Marca Mode CV v Adidas AG and Adidas Benelux BV (Case C-425/98; ECLI:EU:C:2000:339);
- LaRussa v. Twitter Inc. Featured Case. Plaintiff: Anthony LaRussa. Defendant: Twitter Inc. Case Number: 3:2009cv02503. Filed: June 5, 2009. Court: California Northern District Court. Office: San Francisco Office.



- Plastic Co. v. Warner Communications, 675 F.2d 852 (7th Cir. 1982).
- Opinion of the US Supreme Court: Mishawaka Rubber & Woolen Mfg. Co. v. S. S. Kresge Co., 316 U.S. 203 (1942).

## II. Board of Appeals Decisions

- Decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 7 October 2010 (Case R 838/2009-4).
- Decision of the First Board of Appeal of 30 November 2000 relating to Community trade mark application No 811281 (Case R 137/2000-1).
- Decision of the Board of Appeal relating to opposition proceedings No B 140 634, Community trade mark application No 827 824) (Case R 566/2005-2).
- Decision of the First Board of Appeal of 23 October 2009 (Case R 1805/2007-1).
- Decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) ('OHIM') of 20 February 2001 (Case R 538/1999-2).
- Decision of the First Board of Appeal of 30 November 2000 relating to Community trade mark application No 811281 (Case R 137/2000-1).
- Decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 May 2001 (Case R-1086/2000-1).
- Decision of the First Board of Appeal of 23 October 2009 relating to Community trade mark application No 4 790 895 (Case R 1805/2007-1).
- Decision of the First Board of Appeal of 30 November 2000 relating to Community trade mark application No 811281 (Case R 137/2000-1).
- Decision of the Third Board of Appeal of 17 July 2002 relating to Community trade mark application No 997 122 (Case R 140/2002-3).

-Decision of the Third Board of Appeal of 27 June 2001 relating to Community trademark application No 997 122 (Case R 1215/2000-3).

-Decision of the Third Board of Appeal of 27 July 1999 relating to Community trade mark application No 764 290 (Case R 163/1999-3).

**Other documents:**

-Guidelines for Examination in the European Union Intellectual Property Office (EUIPO) on European Union Trade Marks. Available at: <https://euipo.europa.eu/ohimportal/en/trade-mark-guidelines>

- Grounds for Refusal of All Types of Marks, Document Prepared by the Secretariat (SCT/21/2), WIPO Standing Committee on the Law on Trademarks, Industrial Designs and Geographical Indications, Twenty-First Session, Geneva, June 22-26, 2009, Available at: [http://www.wipo.int/edocs/mdocs/sct/en/sct\\_21/sct\\_21\\_2.pdf](http://www.wipo.int/edocs/mdocs/sct/en/sct_21/sct_21_2.pdf)

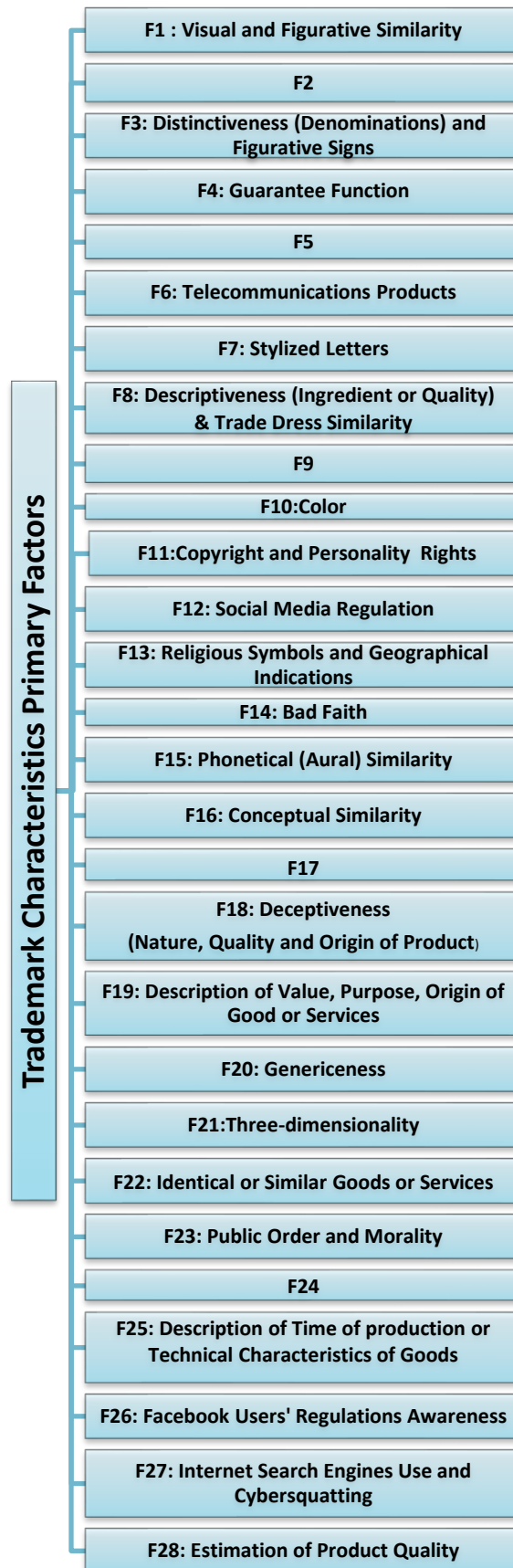
-Grounds for Refusal of All Types of Marks, Document Prepared by the Secretariat (SCT/23/2), WIPO Standing Committee on the Law on Trademarks, Industrial Designs and Geographical Indications, Twenty-Third Session, Geneva, June 30-July 2, 2010, Available at: [http://www.wipo.int/edocs/mdocs/stlt/en/sct\\_23/sct\\_23\\_2.pdf](http://www.wipo.int/edocs/mdocs/stlt/en/sct_23/sct_23_2.pdf)

-New Types Of Marks, SCT/16/2, Annex, page 2, WIPO Standing Committee on the Law of Trademarks, Industrial Designs And Geographical Indications, Sixteenth Session, Geneva, November 13 to 17, 2006.

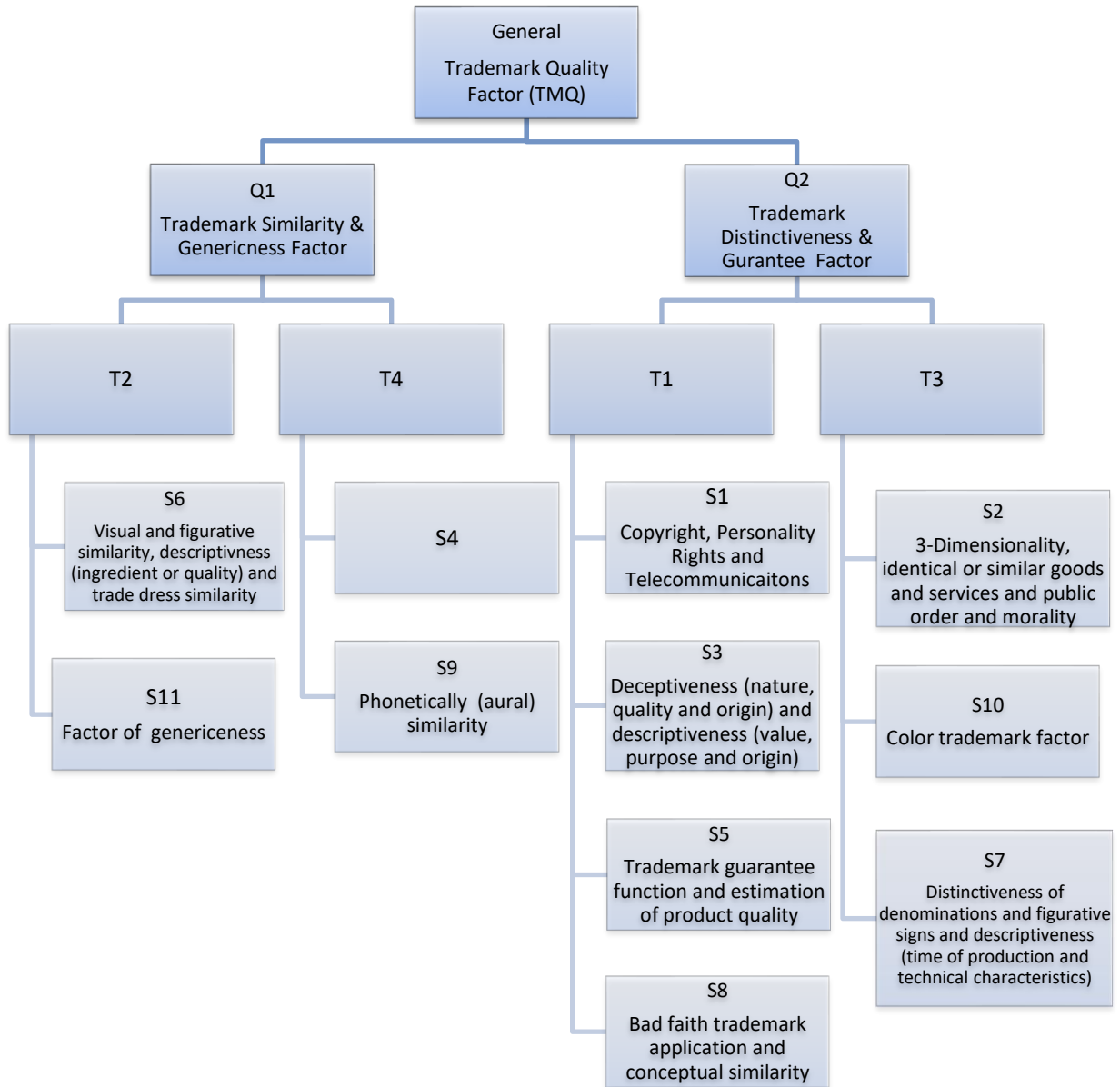
Available at: [http://www.wipo.int/edocs/mdocs/sct/en/sct\\_16/sct\\_16\\_2.pdf](http://www.wipo.int/edocs/mdocs/sct/en/sct_16/sct_16_2.pdf)

*APPENDICIES*

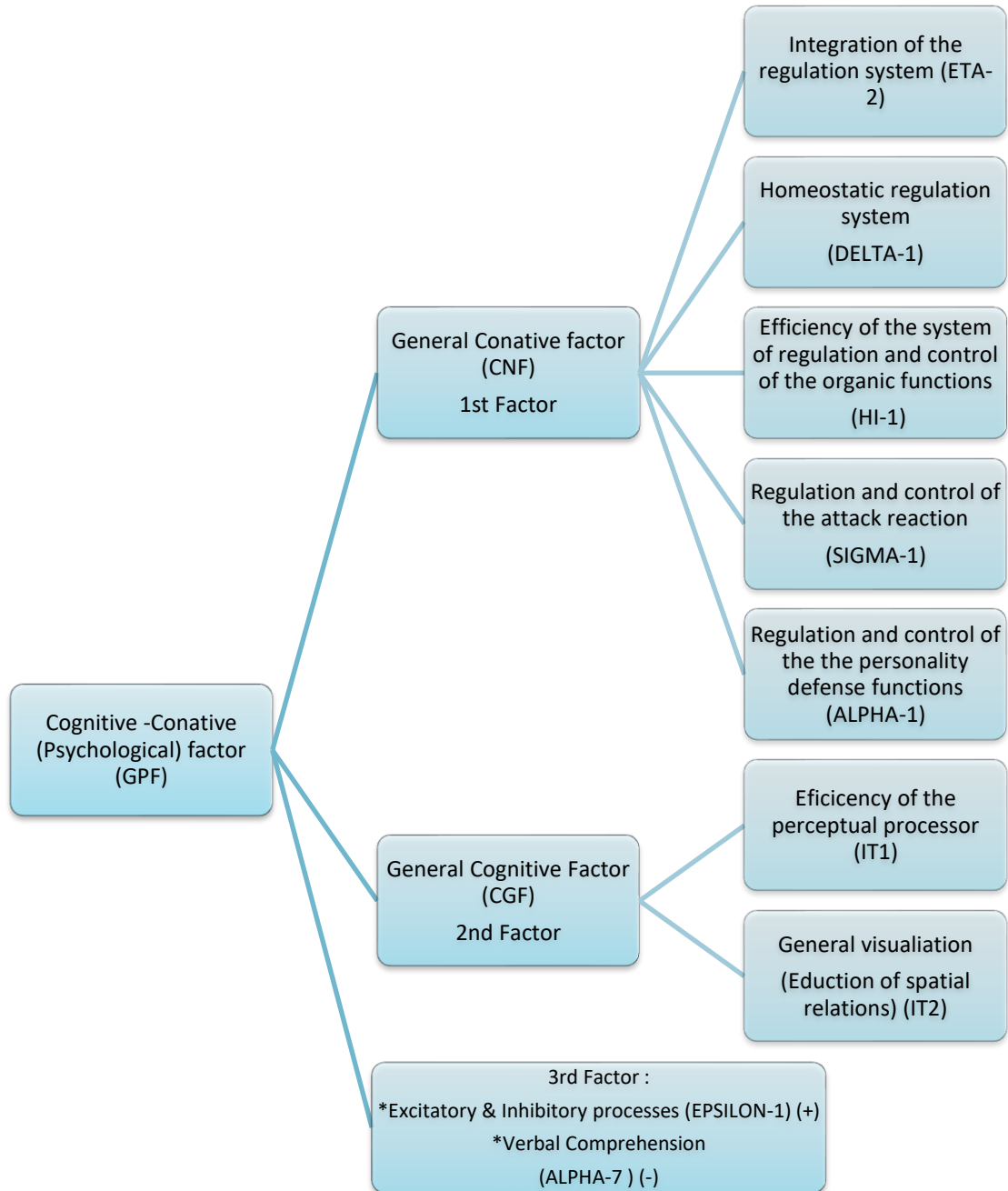
## Appendix D: Trademark Characteristics Primary Factors



**Appendix E: Trademark Characteristics Secondary, Tertiary, Quaternary Factors and The Quinary (General Trademark Quality) Factor Obtained From the Hierarchical (Multi-Level) Factor Analysis**



**Appendix F: Cognitive Abilities and Conative Characteristics Factors (Confirmatory Factor Analysis)**



## Relations Between Quality of Trademarks and Cognitive and Conative Variables Of Consumers

### Résumé

But de la recherche : Déterminer la dépendance des caractéristiques des marques (perceptibilité visuelle, représentation graphique, le caractère distinctif, non-généricité etc.), sur les types généraux spécifiques de capacités intellectuelles et sur les caractéristiques conatives des consommateurs de la population générale, par application de nombreux tests. La recherche a été réalisée sur un échantillon de 206 sujets-consommateurs. Ils ont évalué la qualité des marques de commerce (déposées et refusées) pour différents types de produits et services (TM-1 test). Les sujets ont été testés avec 3 tests cognitifs et 6 tests conatifs. Méthodes quantitatives appliquées : paramètres élémentaires de la statistique descriptive ; corrélation ; analyse factorielle ; analyse de régression multivariée, analyse canonique des corrélations. Les résultats ont indiqué que les variables cognitives et conatives ont des relations statistiquement significatives avec les résultats de TM test (qualité des marques).

Mots clés : *marques, consommateurs, capacités cognitives, caractéristiques conatives*

### Résumé en anglais

Aim of the research: To determine the dependence of trademarks' characteristics (visual perceptibility, graphical representation, distinctiveness, non-genericness etc.), on general and specific types of cognitive abilities and conative characteristics of consumers from the general population, by application of numerous tests. The research was realized on a sample of 206 subjects. They have evaluated the quality of registered and refused trademarks for products and services (TM-1 test). The subjects were also tested by 3 cognitive and 6 conative tests. Applied quantitative methods :basic descriptive statistical parameters (Mean, Standard Deviation, Coefficient of Variability); Correlation (Pearson Product-Moment Correlation and Spearman's Rank Correlation Coefficient); Factor Analysis; Multivariate Regression Analysis in manifest and latent space; and Canonical Correlation Analysis in latent space. The results have indicated that the cognitive and conative variables have statistically significant relation with the results of the TM test (trademark quality).

Key words : *trademarks, consumers, cognitive abilities, conative characteristics.*