

## EUIPO upholds opposition to trademark application citing similarity of signs

26 Nov 2024 | 11:50 GMT | **Insight**

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The European Union Intellectual Property Office, or EUIPO, has partially upheld hearing aid manufacturer Oticon A/S' opposition to Yeasound (Xiamen) Hearing Technology's trademark application for the word "Earlink." In the ruling, the EUIPO opposition division held that a finding of likelihood of confusion was not precluded even though Oticon's earlier trademark "HearLink" was of weak distinctive character.

The European Union Intellectual Property Office, or EUIPO, on Friday partially upheld Danish hearing aid manufacturer Oticon A/S' opposition to Yeasound (Xiamen) Hearing Technology's trademark application for the word "Earlink," finding that "Earlink" was confusingly similar to Oticon's registered trademark "HearLink" for goods and services that were identical or highly similar to Oticon's hearing aids.

The EUIPO opposition division said that a finding of a likelihood of confusion was not precluded merely because Oticon's trademark "HearLink" had a weak distinctive character (see [here](#)).

Instead, the EUIPO said that in assessing the likelihood of confusion, it had to consider the similarity between the signs and the degree to which the goods and services were similar.

Here, the EUIPO concluded that the marks were significantly similar in structure, sound, and meaning.

"Visually and aurally, the signs coincide in the string of letters 'earlink' (and their sound), which is the entirety of the contested sign and almost all the letters of the earlier mark," the EUIPO said.

In addition, the opposition division said the terms "hear" and "ear" have overlapping conceptual meanings related to hearing and auditory functions.

Having found the signs similar, the EUIPO concluded that there was a likelihood of confusion for the contested goods and services in Yeasound's application that were identical to or highly similar to Oticon's hearing aids. Therefore, the opposition division upheld Oticon's opposition for those goods and services, which included adapters for connecting telephones to hearing aids, audio apparatus, computer software, wireless battery chargers, repair of hearing aids, and hearing aid fitting services.

However, Oticon's opposition failed with regard to services that the EUIPO found to be dissimilar to Oticon's hearing aids. Those goods and services included contested apparatus for use in medical analysis, interference suppression, remote monitoring of medical data for medical diagnosis and treatment.

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**Areas of Interest:** Intellectual Property

**Industries:** Health Care

**Geographies:** Europe, European Union Member States