

## VF International fails to block National Geographic's EU trademark application

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Branded clothing giant VF International has failed to prevent National Geographic from applying for an EU trademark for its plain yellow square and the word mark "National Geographic." The European Intellectual Property Office has ruled that VF's opposition was lacking evidence to substantiate that its use of the unregistered "Geographic" mark was for commercial purposes of more than "local significance."

Branded clothing giant VF International has failed to prevent National Geographic from applying for an EU trademark for its plain yellow square and the word mark "National Geographic."

Rejecting VF International's opposition in its entirety, the EU's Intellectual Property Office, or EUIPO, said VF had failed to provide enough evidence to prove that its use of the mark 'Geographic' was of more than "local significance."

In order to block National Geographic's application, VF would have needed to show it was actively using the mark, according to the ruling, published on Wednesday.

It highlights the challenges of enforcing unregistered trademarks and the need for substantial evidence of use and economic significance when opposing trademark applications.

"While evidence suggests that some use of the sign has been made (by VF), it does not meet the minimum threshold of 'more than local significance' set out in Article 8(4) of EU TMR," the EUIPO said in its ruling.

Under article 8 (4) of EU Trademark Regulations, the existence of an earlier non-registered trademark gives good grounds for opposing a trademark application if the mark is used in the course of trade and the use is of more than mere local significance.

VF is a holding company for a range of major leisurewear clothing brands including The North Face, Timberland, Vans and JanSport. One is outdoors apparel brand Napapijri, which has used the word "geographic" in some versions of its logo.

The EUIPO observed that although VF used the mark 'Geographic' alongside 'Napapijri' in a secondary and subordinate position, most of the evidence that VF submitted — including catalogs from 1998-2016, advertising records and printouts of VF's website from 1996-2000 — originated long before it filed its opposition to National Geographic's trademark application.

"The mere presence of a trademark on a website is, by itself, insufficient to prove genuine use," the EUIPO said, adding that VF failed to provide crucial information such as website traffic data, online order records, or catalog distribution numbers to substantiate its opposition.

VF based its opposition on its own EU trademark application No.15,422,991 which was rejected by the EUIPO, and an Italian unregistered trademark for the word 'Geographic' against National Geographic's EU trademark application No. 15,912,538.

The EUIPO said it based the case solely on the Italian unregistered trademark, as VF's EU trademark application was refused in February this year.

An unregistered trademark is a mark that is protected through actual use in commerce rather than through formal registration.

VF International was ordered to pay 300 euros (\$320) in costs and given two months to appeal. The company would have to file written grounds for any appeal within four months.

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**Areas of Interest:** Intellectual Property

**Industries:** Entertainment & Arts

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