

## VI. A brand new nostalgia? Case examples touch-down.

Let us briefly come back to the case studies in order to access them in the light of the findings presented.



It seems that the case of Unitra<sup>200</sup> constitutes an instance in which registration of the trademark corresponding to a socialistic brand should be allowed as the proprietor of the mark seems to be a direct successor of the socialist enterprise.



Unlike Unitra, from the information gathered, it seems that the re-registration of Pewex is likely a case of unjustifiable appropriation of a socialist brand. There is no succession in this case. Thus, trademark registration constituted an unfair appropriation of the exclusivity over the sign. What is more, it is possible that the actions of launching the brand first as a user content driven platform for sharing images of other socialistic brands, including these, which are currently protected as trademarks, constitutes a tort of unfair competition.



In case of Herbapol it seems that there are legitimate grounds for all of the entities to be entitled to use the collective mark. However, the manner in which this sign is being currently used leads to consumer confusion and therefore this conduct is very likely against unfair competition law.



Finally, one might ask if all of the findings presented in this thesis imply that undertakings with no connection to socialism are unable to obtain exclusivity over signs characterised by magnetism evoking an authentic feeling of nostalgia for the socialist era. Pan Tu Nie Stał is a prime example that creating a new and yet ‘authentically’ nostalgic brand is possible. This privately-owned Polish clothing SME offers products with both original and inspired artworks that evoke nostalgia for the socialist era. The brand owners cooperate with designers from the socialist period on fair terms – part of profit from every sale of the Działka Moje Hobby t-shirt goes to the artist who designed the cover of the original book<sup>201</sup>. The example of the said t-shirt shows that signs belonging to the group of socialistic brands can be commercially re-used

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200 National no. of the right: 60578.

201 *Supra* n. 106.

in a way that does not disrupt competition. The owners of Pan Tu Nie Stał were able to secure a copyright license from the creator, which conveys upon them a different type of exclusivity than that which would be conveyed on the basis of trademark law. A type of exclusivity that due to its nature is, ironically one might add, much better suited for signs the attractiveness of which has been shaped by the uncontrolled actions of end users rather than the actions sanctioned and controlled by their proprietor. Furthermore, Pan Tu Nie Stał employs national and regional sentiment through indicating that its products have been designed and manufactured in the Polish city of Łódź. This is a particularly important fact as Łódź is widely known as the centre of the textile industry of socialist Poland. Owners of Pan Tu Nie Stał have created a brand with its own unique magnetism by relying on cultural connotations and thus succeeded in creating a new nostalgia brand that plays off the heritage of socialism. This is a proof that there is no need to appropriate a socialistic brand for a new brand to gain an authentic relation with the times of socialism. Pan Tu Nie Stał is a registered national word mark as of 2013<sup>202</sup>.

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202 National no. of the right: 272274.