

OHIM Decision N°: 000975021 Opposition N°: 000975021 □ Date: 16/10/09

Visually, the marks coincide in the sequence INYX and differ in that the earlier mark starts by the letter T which does not exist in the contested mark. Moreover, the contested mark is fully included in the earlier mark. Bearing in mind the foregoing the Office considers that there is a high degree of visual similarity.

Aurally, the earlier sign is pronounced as “TI/NYX” and the contested mark as “I/ NYX”.

Both signs consist in two syllables and coincide in the letters “I / NYX” which form the two syllables of the contested mark and the first part of the first syllable and the second syllable of the earlier mark and differ in the additional first letter T in the earlier mark. However, the accent is in the identical syllable NYX and the signs share four letters in the same position (of which two of them are vowels) and differ in one letter. Consequently, the rhythm and the intonation are very similar.

Bearing in mind the foregoing and especially the fact that the coincidences are in the rhythm and intonation, the Office considers that there is a high degree of aural similarity.

Conceptually, neither of the two signs has a meaning in any of the language spoken in the European community. Therefore; the conceptual comparison does not influence the assessment of similarity of the signs.

It follows from the above that the signs are visually and aurally very similar.