



Reports of Cases

Judgment of the General Court (Ninth Chamber) of 13 December 2016 — Puro Italian Style v EUIPO (smartline)

(Case T-744/15)

(EU trade mark — Application for EU figurative mark smartline — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

1. *EU trade mark — Definition and acquisition of the EU trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character — Concept — Criteria for assessment*

(Council Regulation No 207/2009, Art. 7(1)(b))

(see paras 20, 21)

2. *EU trade mark — Definition and acquisition of the EU trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character — Marks constituted of advertising slogans — Distinctive character — Application of specific criteria for assessment — Not permissible*

(Council Regulation No 207/2009, Art. 7(1)(b))

(see paras 22, 23)

3. *EU trade mark — Definition and acquisition of the EU trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character — Marks constituted of advertising slogans — Flattering promotional formula — Figurative mark smartline*

(Council Regulation No 207/2009, Art. 7(1)(b))

(see paras 24-26, 28-33, 37)

Re:

ACTION brought against the decision of the First Board of Appeal of EUIPO of 7 October 2015 (Case R 2258/2014-1), concerning an application for registration of the figurative sign smartline as an EU trade mark.

Operative part

The Court:

1. Dismisses the action;
2. Orders Puro Italian Style SpA to bear its own costs and to pay those incurred by the European Union Intellectual Property Office (EUIPO).