



Reports of Cases

Judgment of the General Court (Ninth Chamber) of 26 October 2017 — Hello Media Group v EUIPO — Hola (#hello digitalmente diferentes)

(Case T-330/16)

(EU trade mark — Opposition proceedings — Application for EU figurative mark #hello digitalmente diferentes — Earlier EU word and figurative marks HELLO! — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Replacement of a party to the proceedings)

1. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Criteria for assessment*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 23, 75, 76)

2. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Assessment of the likelihood of confusion — Attention level of the public*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 24, 81)

3. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Assessment of the likelihood of confusion — Determination of the relevant public*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 27, 28)

4. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Figurative mark #hello digitalmente diferentes — Figurative and word marks HELLO!*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 31-33, 53, 61, 82, 84, 85)

5. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Similarity of the marks concerned — Criteria for assessment — Composite mark*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 34, 35, 54, 55)

6. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Similarity of the marks concerned — Assessment of the distinctiveness of an element composing a trade mark*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 38, 44, 45)

7. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Similarity of the marks concerned — Visual similarity between a figurative mark and a word mark*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see para. 62)

8. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Weighing elements of similarity or difference between the signs — Taking into account of the intrinsic characteristics of the signs or the conditions in which the goods or services are marketed*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see para. 77)

Re:

ACTION brought against the decision of the Second Board of Appeal of EUIPO of 21 April 2016 (Case R 1979/2015-2), relating to opposition proceedings between Hola and Hello Media.

Operative part

The Court:

1. Authorises Hello Media Group, SL, to replace Hello Media, SL, as applicant;
2. Dismisses the action;
3. Orders Hello Media Group to pay the costs.