



Reports of Cases

Judgment of the General Court (First Chamber) of 5 October 2017 – Versace 19.69 Abbigliamento Sportivo v EUIPO – Gianni Versace (VERSACCINO)

(Case T-337/16)

(EU trade mark — Opposition proceedings — Application for EU figurative trade mark
VERSACCINO — Earlier EU word mark VERSACE — Genuine use of the earlier mark — Article 42(2)
of Regulation (EC) No 207/2009 — Relative ground for refusal — Likelihood of confusion —
Similarity of signs — Article 8(1)(b) of Regulation (EC) No 207/2009)

1. *EU trade mark – Observations of third parties and opposition – Examination of the opposition – Proof of use of the earlier mark – Genuine use – Meaning – Criteria for assessment*

(Council Regulation No 207/2009, Arts 15(1), and 42(2); Commission Regulation No 2868/95, Art. 1, Rule 22(6))

(see paras 47, 51, 52)

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 – Criteria for assessment*

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

(see paras 64, 65, 87)

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 – Degree of attention of the relevant public*

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

(see paras 72, 74)

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 VERSACCINO and word mark VERSACE*

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

(see paras 76, 84, 89, 94, 102-106)

5. *EU trade mark – Appeals procedure – Action before the EU judicature – Power of the General Court to alter the contested decision – Limits*

(Council Regulation No 207/2009, Art. 65(2))

(see paras 83, 84)

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 – Similarity of the marks concerned – Criteria for assessment – Composite mark*

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

(see para 88)

Application for

ACTION brought against the decision of the First Board of Appeal of EUIPO of 6 April 2016 (Case R 1172/2015-1), relating to opposition proceedings between Gianni Versace and Versace 19.69 Abbigliamento Sportivo.

Operative part

The Court:

1. Dismisses the action;
2. Orders Versace 19.69 Abbigliamento Sportivo Srl to pay the costs.