



Reports of Cases

Judgment of the General Court (Fourth Chamber) of 29 May 2018 – Sata v EUIPO – Zhejiang Rongpeng Air Tools (6000)

(Case T-302/17)

(EU trade mark — Invalidity proceedings — EU word mark 6000 — Absolute ground for refusal — Descriptive character — Article 52(1)(a) and (b) of Regulation (EC) No 207/2009 (now Article 59(1)(a) and (b) of Regulation (EU) 2017/1001) — Article 7(1)(c) of Regulation No 207/2009 (now Article 7(1)(c) of Regulation 2017/1001) — Equal treatment — Principle of sound administration — Obligation to state reasons)

1. *EU trade mark — Appeals procedure — Action before the EU judicature — Legality of a decision issued by EUIPO's Board of Appeal adjudicating in invalidity proceeding — Challenged by the adducing of new facts — Not permissible — Account taken, for the purposes of interpreting EU law, of EU national or international case-law not cited before the EUIPO bodies — Lawfulness*

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

(see para. 20)

2. *EU trade mark — Definition and acquisition of the EU trade mark — Absolute grounds for refusal — Marks composed exclusively of signs or indications capable of designating the characteristics of a product or service — Aim — Need to preserve availability*

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

(see para. 28)

3. *EU trade mark — Definition and acquisition of the EU trade mark — Absolute grounds for refusal — Marks composed exclusively of signs or indications capable of designating the characteristics of a product or service — Meaning — Sign composed exclusively of numerals*

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

(see paras 29-33)

4. *EU trade mark — Definition and acquisition of the EU trade mark — Absolute grounds for refusal — Marks composed exclusively of signs or indications capable of designating the characteristics of a product or service — Assessment of the descriptive nature of a sign — Criteria*

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

(see para. 34)

5. *EU trade mark — Definition and acquisition of the EU trade mark — Absolute grounds for refusal — Marks composed exclusively of signs or indications capable of designating the characteristics of a product or service — Word mark 6000*

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

(see paras 36, 37, 39, 41-49)

6. *EU trade mark — Definition and acquisition of the EU trade mark — Absolute grounds for refusal — Overlapping of the scope of the grounds set out in Article 7(1)(b) and (c) and (3) of Regulation No 207/2009*

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

(see para. 53)

7. *EU trade mark — Decisions of the Office — Principle of equal treatment — Principle of sound administration — EUIPO's previous decision-making practice — Principle of legality — Need for a strict and complete examination in each particular case*

(Council Regulation No 207/2009)

(see paras 58-60)

8. *EU trade mark — Procedural provisions — Statement of reasons for decisions — Article 75, first sentence, of Regulation No 207/2009 — Scope identical to that of Article 296 TFEU*

(Art. 296 TFEU; Council Regulation No 207/2009, Art. 75, first sentence)

(see paras 65-67)

9. *Actions for annulment — Pleas in law — Lack of or inadequate statement of reasons — Separate ground from the one concerning substantive legality*

(Art. 296 TFEU)

(see para. 68)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 8 March 2017 (Case R 656/2016-4), relating to invalidity proceedings between Zhejiang Rongpeng Air Tools and Sata.

Operative part

The Court:

1. Dismisses the action;
2. Orders Sata GmbH & Co. KG to pay the costs.