



C/2024/2613

22.4.2024

Judgment of the General Court of 28 February 2024 – BIW Invest v EUIPO – New Yorker Marketing & Media International (COMPTON)

(Case T-746/22) ⁽¹⁾

(EU trade mark – Invalidity proceedings – Word mark COMPTON – Absolute grounds for invalidity – Lack of descriptiveness – Article 7(1)(c) of Regulation (EC) No 207/2009 (now Article 7(1)(c) of Regulation (EU) 2017/1001) – Distinctive character – Article 7(1)(b) of Regulation No 207/2009 (now Article 7(1)(b) of Regulation 2017/1001))

(C/2024/2613)

Language of the case: German

Parties

Applicant: BIW Invest AG (Appenzell, Switzerland) (represented by: E. Mielke, U. Stelzenmüller and J. Weiser, lawyers)

Defendant: European Union Intellectual Property Office (represented by: E. Nicolás Gómez, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: New Yorker Marketing & Media International GmbH (Brunswick, Germany) (represented by: M. Hartmann, S. Fröhlich and H. Lerchl, lawyers)

Re:

By its action under Article 263 TFEU, the applicant seeks the annulment of the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 16 September 2022 (Case R 1915/2021-2).

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 16 September 2022 (Case R 1915/2021-2);
2. Orders EUIPO and New Yorker Marketing & Media International GmbH to each bear, in addition to their own costs, half of those incurred by BIW Invest AG, including costs necessarily incurred for the purposes of the proceedings before the Board of Appeal.

⁽¹⁾ OJ C 24, 23.1.2023.