



Reports of Cases

Judgment of the General Court (Ninth Chamber) of 3 December 2015 —

TrekStor v OHIM — Scanlab (iDrive)

(Case T-105/14)

(Community trade mark — Opposition proceedings — Application for Community word mark iDrive — Prior German word mark IDRIVE — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

1. *Community trade mark — Appeals procedure — Action before the EU judicature — Jurisdiction of the General Court — Review of the lawfulness of decisions of the Boards of Appeal — Annulment or variation for reasons appearing after judgment was delivered — Exclusion (Council Regulation No 207/2009, Art. 65(2)) (see paras 15-17)*
2. *Community trade mark — Observations of third parties and opposition — Examination of the opposition — Proof of use of the earlier mark — Request presented expressly and on time by the applicant — Possibility of submitting the application for the first time before the Board of Appeal — Exclusion (Council Regulation No 207/2009, Art. 42(2) and (3); Council Regulation No 2868/95, Art. 1, Rule 22(1), and Rule 20(2)) (see paras 22-24)*
3. *Community trade mark — Definition and acquisition of the Community 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 30, 83)*
4. *Community trade mark — Definition and acquisition of the Community 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 — Word marks iDrive and IDRIVE (Council Regulation No 207/2009, Art. 8(1)(b)) (see paras 31, 36, 37, 49, 82, 90, 91)*
5. *Community trade mark — Definition and acquisition of the Community 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 — Attention level of the public (Council Regulation No 207/2009, Art. 8(1)(b)) (see para. 35)*

6. *Community trade mark — Definition and acquisition of the Community 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 between the goods or services in question — Criteria for assessment (Council Regulation No 207/2009, Art. 8(1)(b)) (see para. 39)*
7. *Community trade mark — Definition and acquisition of the Community 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 (Council Regulation No 207/2009, Art. 8(1)(b)) (see paras 50, 59, 62)*
8. *Community trade mark — Definition and acquisition of the Community 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 — Weak distinctive character of the earlier mark — Effect (Council Regulation No 207/2009, Art. 8(1)(b)) (see paras 88, 89)*

Re:

ACTION brought against the decision of the First Board of Appeal of OHIM of 2 December 2013 (Case R 2330/2012-1) concerning opposition proceedings between Scanlab AG and TrekStor Ltd.

Operative part

The Court:

1. Dismisses the request to stay the proceedings lodged by TrekStor Ltd;
2. Dismisses the action;
3. Orders TrekStor Ltd to pay the costs.