



Reports of Cases

Judgment of the General Court (First Chamber) of 19 April 2016 —

Novomatic v EUIPO — Granini France (HOT JOKER)

(Case T-326/14)

(EU trade mark — Opposition proceedings — Application for the EU figurative mark HOT JOKER — Earlier national figurative mark Joker — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Obligation to state reasons — Article 75 of Regulation No 207/2009 — Article 76(1) of Regulation No 207/2009)

1. *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 22-24)*
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 43, 44, 79)*
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 — Figurative marks HOT JOKER and Joker (Council Regulation No 207/2009, Art. 8(1)(b)) (see paras 45, 65, 70, 71, 80)*
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 — Similarity between the goods or services in question — Criteria for assessment (Council Regulation No 207/2009, Art. 8(1)(b)) (see para. 46)*
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 66, 67)*

6. *EU trade mark — Definition and acquisition of the EU trade mark — Prior registration of the trade mark in certain Member States — Effect (Council Regulation No 207/2009) (see para. 82)*
7. *EU trade mark — Decisions of the Office — Legality — Office's previous decision-making practice — Principle of non-discrimination — No effect (Council Regulation No 207/2009) (see para. 83)*
8. *EU trade mark — Procedural provisions — Examination of the facts of the Office's own motion — Opposition proceedings — Examination restricted to the submissions of the parties — Well-known facts taken into account (Council Regulation No 207/2009, Art. 76(1)) (see para. 94)*

Re:

ACTION brought against the decision of the Second Board of Appeal of EUIPO of 6 February 2014 (Case R 589/2013-2), relating to opposition proceedings between Granini France and Novomatic AG.

Operative part

The Court:

1. Dismisses the action;
2. Orders Novomatic AG to pay the costs.