



Reports of Cases

Judgment of the General Court (Sixth Chamber) of 10 December 2015 —

Sony Computer Entertainment Europe v OHIM — Marpefa (Vieta)

(Case T-690/14)

(Community trade mark — Revocation proceedings — Community figurative mark Vieta —
Genuine use of the mark — Nature of use — Article 15(1) and Article 51(2) of Regulation (EC)
No 207/2009 — Form differing in elements which do not alter the distinctive character of the mark —
Proof of use for the registered goods)

1. *Community trade mark — Surrender, revocation and invalidity — Causes of revocation — No genuine use of a trade mark — Use of the trade mark in a form differing in elements not altering the distinctive character of the mark — Subject-matter and scope of Article 15(1)(a) of Regulation No 207/2009 (Council Regulation No 207/2009, Arts 15(1), second para., (a), and 51(1)(a)) (see para. 31)*
2. *Community trade mark — Surrender, revocation and invalidity — Causes of revocation — No genuine use of a trade mark — Use of the trade mark in a form differing in elements not altering the distinctive character of the mark (Council Regulation No 207/2009, Arts 15(1), second para., (a), and 51(1)(a)) (see paras 32, 44, 45, 49, 53)*
3. *Community trade mark — Surrender, revocation and invalidity — Causes of revocation — No genuine use of a trade mark — Proof of use of the earlier mark — Genuine use — Concept — Criteria for assessment (Council Regulation No 207/2009, Arts 15(1), and 51(1)(a); Commission Regulation No 2868/95, Art. 1, Rules 22(3), and 40(5)) (see paras 33, 34)*
4. *Community trade mark — Surrender, revocation and invalidity — Causes of revocation — No genuine use of a trade mark — Use of the trade mark in a form differing in elements not altering the distinctive character of the mark — Figurative mark Vieta (Council Regulation No 207/2009, Arts 15(1)(a), and 51(1)(a), and (2)) (see paras 54, 69)*
5. *Community trade mark — Surrender, revocation and invalidity — Causes of revocation — No genuine use of a trade mark — Proof of use of the earlier mark — Partial use — Effect — Concept of ‘part of goods or services’ concerned by registration (Council Regulation No 207/2009, Arts 15(1)(a) and 51(2)) (see paras 61, 62)*

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of 2 July 2014 (Case R 2100/2013-2), relating to revocation proceedings between Sony Computer Entertainment Europe Limited and Marpefa, SL.

Operative part

The Court:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 2 July 2014 (Case R 2100/2013-2) in so far as it dismissed the appeal against the decision of the Cancellation Division to reject the application for the revocation of the Community figurative mark Vieta for ‘apparatus for the reproduction of sound and images’;
2. Dismisses the action as to the remainder;
3. Orders each party to bear its own costs.