



## Reports of Cases

### Judgment of the General Court (Second Chamber) of 24 November 2016 — CG v EUIPO — Perry Ellis International Group (P PRO PLAYER)

(Case T-349/15)

(EU trade mark — Opposition proceedings — Application for EU figurative mark P PRO PLAYER — Earlier EU and national figurative marks P and P PROTECTIVE — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

1. *EU 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 — Re-examination of the facts in the light of evidence not previously submitted before EUIPO bodies — Precluded*

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

(see para. 20)

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 24, 25, 65, 66)

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 — 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. 26)

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 — Likelihood of confusion with the earlier mark — Figurative mark P PRO PLAYER — Figurative marks P and P PROTECTIVE*

*(Council Regulation No 207/2009, Art. 8(1)(b))*

*(see paras 27, 28, 68, 77)*

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 — Weak distinctive character of the dominant element*

*(Council Regulation No 207/2009, Art. 8(1)(b))*

*(see paras 30, 43, 44)*

6. *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 — Elements of a trade mark having a descriptive character*

*(Council Regulation No 207/2009, Art. 8(1)(b))*

*(see para. 39)*

7. *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 — Weighing elements of similarity or difference between the signs — Taking into account of the intrinsic characteristics of the signs or the conditions in which the goods or services are marketed*

*(Council Regulation No 207/2009, Art. 8(1)(b))*

*(see paras 53, 74)*

**Re:**

ACTION brought against the decision of the Fourth Board of Appeal of EUIPO of 28 April 2015 (Case R 2439/2014-4), relating to opposition proceedings between Perry Ellis International Group Holdings and CG Verwaltungsgesellschaft.

**Operative part**

The Court:

1. Dismisses the action;

2. Orders CG Verwaltungsgesellschaft mbH to bear its own costs and to pay the costs incurred by the European Union Intellectual Property Office (EUIPO) and by Perry Ellis International Group Holdings Ltd.