

Reports of Cases

Order of the General Court (Third Chamber) of 17 October 2016 —

Orthema Service v EUIPO (Gehen wie auf Wolken)(Case T-620/15)

(EU trade mark

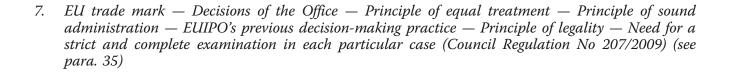
(Application for EU word mark Gehen wie auf Wolken — Mark consisting of an advertising slogan — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009 — Action manifestly lacking any foundation in law)

- 1. EU trade mark Definition and acquisition of the EU trade mark Absolute grounds for refusal Marks devoid of any distinctive character Concept Criteria for assessment (Council Regulation No 207/2009, Art. 7(1)(b)) (see paras 15, 16)
- 2. EU trade mark Definition and acquisition of the EU trade mark Absolute grounds for refusal Marks devoid of any distinctive character Marks constituted of advertising slogans Distinctive character Application of specific criteria for assessment Not permissible (Council Regulation No 207/2009, Art. 7(1)(b)) (see paras 17-19)
- 3. EU trade mark Definition and acquisition of the EU trade mark Absolute grounds for refusal Marks devoid of any distinctive character Marks constituted of advertising slogans Slogan with a fantasy character (Council Regulation No 207/2009, Art. 7(1)(b)) (see para. 20)
- 4. EU trade mark Definition and acquisition of the EU trade mark Absolute grounds for refusal Marks devoid of any distinctive character Marks constituted of advertising slogans Flattering promotional formula (Council Regulation No 207/2009, Art. 7(1)(b)) (see paras 21, 22)
- 5. EU trade mark Definition and acquisition of the EU trade mark Absolute grounds for refusal Marks devoid of any distinctive character Word mark Gehen wie auf Wolken (Council Regulation No 207/2009, Art. 7(1)(b)) (see paras 24, 29, 32)
- 6. EU trade mark Definition and acquisition of the EU trade mark Absolute grounds for refusal Overlap between the scope of the grounds for refusal set out in subparagraphs (b) and (c) of Article 7(1) of Regulation No 207/2009 (Council Regulation No 207/2009, Art. 7(1)(b) and (c)) (see para. 28)

EN

ECLI:EU:T:2016:625

INFORMATION ON UNPUBLISHED DECISIONS



Re:

ACTION brought against the decision of the Fourth Board of Appeal of EUIPO of 1 September 2015 (Case R 404/2015-4), concerning an application for registration of the word sign Gehen wie auf Wolken as an EU trade mark.

Operative part

- 1. The action is dismissed.
- 2. Orthema Service GmbH is ordered to pay the costs.

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