



Reports of Cases

Judgment of the General Court (Fourth Chamber) of 6 October 2017 – Kofola ČeskoSlovensko v EUIPO – Mionetto (UGO)

(Case T-176/16)

(EU trade mark — Opposition proceedings — Application for EU figurative mark UGO — Earlier EU figurative mark il UGO ! — Partial surrender of the earlier mark — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

1. *EU trade mark – Appeals procedure – Action before the EU judicature – Power of the General Court to alter the contested decision – Limits – Surrender of the earlier mark occurred subsequent to the decision of the Board of Appeal – Irrelevant*

(Council Regulation No 207/2009, Arts 50(2) and 65(2)(3))

(see paras 24-28)

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 35, 36)

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 – Similarity between the goods or services in question – Criteria for assessment*

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

(see para 42)

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 marks UGO and il UGO !*

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

(see paras 44, 63, 68, 69, 72, 77, 81)

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 45, 46)

Re:

ACTION brought against the decision of the Fourth Board of Appeal of EUIPO of 22 February 2016 (Case R 2707/2014-4), relating to opposition proceedings between Mionetto and Kofola ČeskoSlovensko.

Operative part

The Court:

1. Dismisses the action;
2. Orders Kofola ČeskoSlovensko a.s. to pay the costs.