



Reports of Cases

Judgment of the General Court (Tenth Chamber) of 23 September 2020 – Aldi v EUIPO (BBQ BARBECUE SEASON)

(Case T-522/19)

(EU trade mark – Application for the EU figurative mark BBQ BARBECUE SEASON – Absolute grounds for refusal – Descriptiveness – Article 7(1)(c) of Regulation (EU) 2017/1001 – No distinctive character – Article 7(1)(b) of Regulation 2017/1001)

1. *European Union trade mark – Definition and acquisition of the European Union trade mark – Absolute grounds for refusal – Marks composed exclusively of signs or indications capable of designating the characteristics of a product or service – Concept*

(European Parliament and Council Regulation 2017/1001, Art. 7(1)(c))

(see para. 13)

2. *European Union trade mark – Definition and acquisition of the European Union trade mark – Absolute grounds for refusal – Marks composed exclusively of signs or indications capable of designating the characteristics of a product or service – Aim – Need to preserve availability*

(European Parliament and Council Regulation 2017/1001, Art. 7(1)(c))

(see para. 14)

3. *European Union trade mark – Definition and acquisition of the European Union trade mark – Absolute grounds for refusal – Marks composed exclusively of signs or indications capable of designating the characteristics of a product or service – Assessment of the descriptive nature of a sign – Criteria*

(European Parliament and Council Regulation 2017/1001, Art. 7(1)(c))

(see paras 15, 16, 20)

4. *European Union trade mark – Definition and acquisition of the European Union trade mark – Absolute grounds for refusal – Marks composed exclusively of signs or indications capable of designating the characteristics of a product or service – Concept of characteristic*

(European Parliament and Council Regulation 2017/1001, Art. 7(1)(c))

(see para. 17)

5. *European Union trade mark – Definition and acquisition of the EU trade mark – Absolute grounds for refusal – Marks composed exclusively of signs or indications capable of designating the characteristics of a product or service – Figurative mark BBQ BARBECUE SEASON*

(European Parliament and Council Regulation 2017/1001, Art. 7(1)(c))

(see paras 29, 36)

6. *European Union trade mark – Definition and acquisition of the European Union trade mark – Absolute grounds for refusal – Marks devoid of distinctive character – Meaning – Criteria for assessment*

(European Parliament and Council Regulation 2017/1001, Art. 7(1)(b))

(see paras 41-44)

7. *European Union trade mark – Definition and acquisition of the European Union trade mark – Absolute grounds for refusal – Marks devoid of distinctive character – Figurative mark BBQ BARBECUE SEASON*

(European Parliament and Council Regulation 2017/1001, Art. 7(1)(b))

(see paras 46-48)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 17 May 2019 (Case R 1359/2018-5), concerning an application for registration of the figurative sign BBQ BARBECUE SEASON as an EU trade mark.

Operative part

The Court:

1. Dismisses the action;
2. Orders Aldi GmbH & Co. KG to pay the costs.