



Reports of Cases

Order of the General Court (Second Chamber) of 7 February 2020 – Fleximed v EUIPO — docPrice (Fleximed)

(Case T-214/19)

(EU trade mark — Invalidity proceedings — EU word mark Fleximed — Earlier EU word mark mediFLEX — Relative grounds for refusal — Likelihood of confusion — Article 8(1) of Regulation (EU) 2017/1001 — Action manifestly lacking any foundation in law)

1. *Judicial proceedings — Decision taken by way of reasoned order — Possibility of ruling without an oral procedure — Action manifestly lacking any foundation in law*

(Rules of Procedure of the General Court, Art. 126)

(see para. 15)

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*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see paras 20, 50, 51, 62)

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 — Refusal to register where there is a relative ground for refusal, even if limited to part of the Union*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see paras 21, 61)

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 — Assessment of the likelihood of confusion — Determination of the relevant public — Attention level of the public*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see paras 23, 24, 58, 59)

5. *EU trade mark — Surrender, revocation and invalidity — Relative grounds for invalidity — Existence of an identical or similar earlier mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Word marks Fleximed and mediFLEX*

(European Parliament and Council Regulation 2017/1001, Arts 8(1)(b) and 60(1)(a))

(see paras 24, 25, 27, 37, 43, 48, 49, 55-57, 60)

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 between the goods or services in question — Criteria for assessment*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see para. 26)

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 — Similarity of the marks concerned — Criteria for assessment*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see paras 28, 31, 42, 47)

8. *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 — Assessment of the distinctive character of an element of which a trade mark is composed*

(European Parliament and Council Regulation 2017/1001, Art. 8(1)(b))

(see paras 29, 30)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 6 February 2019 (case R 1121/2018-4), relating to invalidity proceedings between docPrice and Fleximed.

Operative part

1. The action is dismissed as manifestly lacking any foundation in law.
2. Fleximed AG is ordered to pay the costs.