



Reports of Cases

Judgment of the General Court (Fifth Chamber) of 11 May 2022 – Creaticon v EUIPO – Paul Hartmann (SK SKINTEGRA THE RARE MOLECULE)

(Case T-93/21)¹

(EU trade mark – Opposition proceedings – International registration designating the European Union – EU figurative mark SK SKINTEGRA THE RARE MOLECULE – Earlier national word mark SKINTEGRITY – 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 – Procedural provisions – Decisions of EUIPO – Observance of the rights of the defence – Scope of the principle*

(Charter of Fundamental Rights of the European Union, Art. 41(2)(a); European Parliament and Council Regulation 2017/1001, Art. 94(1), second sentence)

(see paras 15, 16)

2. *EU trade mark – Appeals procedure – Appeal brought against a decision of a unit of the Office ruling at first instance and referred to the Board of Appeal – Functional continuity between those two bodies – Examination of the appeal by the Board of Appeal – Scope*

(European Parliament and Council Regulation 2017/1001, Art. 71(1))

(see paras 18, 19)

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 – Criteria for assessment*

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

(see paras 28, 29, 95)

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 –*

¹ OJ C 138, 19.4.2021.

Assessment of the likelihood of confusion – Determination of the relevant public – Level of attention of the public

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

(see para. 34)

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 – Likelihood of confusion with the earlier mark – Figurative mark SK SKINTEGRA THE RARE MOLECULE and word mark SKINTEGRITY*

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

(see paras 36, 56, 83, 87, 94, 98-100)

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 – Complementary nature of the goods or services*

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

(see paras 37, 54)

7. *EU trade mark – Decisions of EUIPO – Legality – Examination by the EU judicature – Criteria*

(European Parliament and Council Regulation 2017/1001)

(see para. 44)

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 – Criteria for assessment – Composite mark*

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

(see paras 57-61, 68)

9. *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 – 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 para. 67)

Operative part

The Court:

1. Dismisses the action;
2. Orders Creaticon d.o.o. to pay the costs.