



Reports of Cases

Judgment of the General Court (Fifth Chamber) of 19 October 2022 – DBM Videovertrieb v EUIPO – Nube (Lío)

(Case T-467/21)¹

(EU trade mark – Invalidity proceedings – European Union figurative mark Lío – Absolute ground for invalidity – Bad faith – Article 52(1)(b) of Regulation (EC) No 207/2009 (now Article 59(1)(b) of Regulation (EU) 2017/1001))

1. *EU trade mark – Surrender, revocation and invalidity – Absolute grounds for invalidity – Applicant in bad faith when filing the trade mark application – Criteria for assessment – Taking into account all relevant factors at the time of filing of the application for registration – Applicant's knowledge that a third party is using an identical or similar sign – Intention of the applicant – Origin and use of the contested sign – Commercial logic underlying the registration of the contested sign as an EU trade mark – Chronology of events leading up to the filing of the trade mark application*

(Council Regulation No 207/2009, Art. 52(1)(b))

(see paragraphs 22, 23, 27, 28, 31, 41)

2. *EU trade mark – Surrender, revocation and invalidity – Absolute grounds for invalidity – Applicant in bad faith when filing the trade mark application – Concept of bad faith – Scope*

(Council Regulation No 207/2009, Art. 52(1)(b))

(see paragraphs 24-26)

3. *EU trade mark – Surrender, revocation and invalidity – Absolute grounds for invalidity – Applicant in bad faith when filing the trade mark application – Criteria for assessment – Need to prove the existence of the likelihood of confusion between the marks at issue – Not included*

(Council Regulation No 207/2009, Arts 8(1)(a) and (b), (2) and (5), 52(1)(b) and 53(1)(a))

(see paragraphs 29, 30)

¹ OJ C 382, 20.9.2021.

4. *EU trade mark – Surrender, revocation and invalidity – Absolute grounds for invalidity – Applicant in bad faith when filing the trade mark application – Burden of proof*

(Council Regulation No 207/2009, Art. 52(1)(b))

(see paragraphs 32, 33)

5. *EU trade mark – Surrender, revocation and invalidity – Absolute grounds for invalidity – Applicant in bad faith when filing the trade mark application – Figurative mark Lío*

(Council Regulation No 207/2009, Art. 52(1)(b))

(see paragraphs 42, 50, 60, 67, 73, 80-83)

Operative part

The Court:

1. Dismisses the action;
2. Orders DBM Videovertrieb GmbH to pay the costs.