



Reports of Cases

Judgment of the General Court (Fifth Chamber) of 19 October 2022 – Kaczorowska v EUIPO – Groupe Marcelle (MAESELLE)

(Case T-718/21)¹

(EU trade mark – Opposition proceedings – Application for the EU word mark MAESELLE – Earlier EU figurative mark MARCELLE – Relative ground for refusal – Article 8(1)(b) of Regulation (EU) 2017/1001)

1. *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 paragraphs 18, 19, 75)

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 – 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 paragraph 20)

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 – Assessment of the likelihood of confusion – Determination of the relevant public – Attention level of the public – Cosmetic, beauty or personal care and personal hygiene products*

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

(see paragraphs 21, 22, 27)

¹ OJ C 2, 3.1.2022.

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 – Word mark MAESELLE and figurative mark MARCELLE*

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

(see paragraphs 30, 43, 54, 60, 74, 85)

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

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

(see paragraph 31)

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 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 paragraphs 34, 35, 38, 49-51, 59, 66-69)

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 – Likelihood of confusion with the earlier mark – Coexistence of earlier marks on the market – Effect*

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

(see paragraph 82)

Operative part

The Court:

1. Dismisses the action;
2. Orders Ms Katarzyna Kaczorowska to pay the costs.