



## Reports of Cases

### Judgment of the General Court (Single Judge) of 7 December 2022 – Bora Creations v EUIPO (essence)

(Case T-738/21)<sup>1</sup>

(EU trade mark – Invalidity proceedings – EU figurative mark essence – Absolute grounds for refusal – Descriptive character – Article 7(1)(c) of Regulation (EU) 2017/1001 – Lack of distinctive character – Article 7(1)(b) of Regulation 2017/1001)

1. *EU 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 – Aim – Need to preserve availability*

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

*(see paragraph 13)*

2. *EU 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 essence*

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

*(see paragraphs 21, 22, 29, 31, 34)*

3. *EU 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 – Assessment of the descriptive nature of a sign – Standard nature of circular frames*

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

*(see paragraph 32)*

4. *EU trade mark – Definition and acquisition of the EU trade mark – Refusal of registration based on one of the absolute grounds for refusal set out in Article 7(1) of Regulation 2017/1001 – Whether sufficient*

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

<sup>1</sup> OJ C 37, 24.1.2022.

*(see paragraph 36)*

## **Operative part**

The Court:

1. Dismisses the action;
2. Orders Bora Creations, SL to pay the costs.