



## Reports of Cases

### Judgment of the General Court (Third Chamber) of 1 February 2023 – Hacker-Pschorr Bräu v EUIPO – Vandělíková (HACKER SPACE)

(Case T-349/22)<sup>1</sup>

(EU trade mark – Opposition proceedings – Application for EU word mark HACKER SPACE – Earlier EU word mark HACKER-PSCHORR and earlier EU figurative mark Hacker Pschorr, as well as earlier national word marks HACKERBRÄU and HACKER – Relative ground for refusal – Identification of the ground on which the opposition is based – Article 8(1)(a) and (b) of Regulation (EU) 2017/1001 – Article 2(2)(c) of Delegated Regulation (EU) 2018/625)

1. *EU trade mark – Appeals procedure – Appeal against a decision of the Opposition Division of EUIPO – Examination by the Board of Appeal – Scope – Facts and evidence not produced in support of the opposition within the period prescribed for that purpose – Account taken – Facts and evidence determining the grounds on which the opposition is based – Precluded*

*(European Parliament and Council Regulation 2017/1001, Art. 46(1); Commission Regulation 2018/625, Art. 2(2)(c) and (4))*

*(see paragraph 33)*

2. *EU trade mark – Definition and acquisition of the EU trade mark – Relative grounds for refusal – Determination of the grounds on which the notice of opposition is based*

*(European Parliament and Council Regulation 2017/1001, Art. 46(1))*

*(see paragraph 40)*

3. *EU trade mark – Decisions of EUIPO – Principle of equal treatment – Principle of sound administration – EUIPO's previous decision-making practice – Principle of legality*

*(European Parliament and Council Regulation 2017/1001)*

*(see paragraphs 41, 49)*

<sup>1</sup> OJ C 284, 25.7.2022.

## **Operative part**

The Court:

1. Dismisses the action;
2. Orders each party to bear its own costs.