



Reports of Cases

Order of the General Court (Eighth Chamber) of 11 December 2023 – Nieß v EUIPO – Terrasoverkapping-inkoop.nl (GARTENLÜX)

(Case T-754/22)¹

(EU trademark – Opposition proceedings – Application for the EU word mark GARTENLÜX – Previous company name and business name GARTENLUX – Relative ground for refusal – Article 8(4) of Regulation (EU) 2017/1001 – Action manifestly lacking any foundation in law)

1. *EU trade mark – Definition and acquisition of the EU trade mark – Relative grounds for refusal – Opposition by the proprietor of an unregistered trade mark or other sign used in the course of trade – Conditions – Interpretation in the light of EU law – Assessment by reference to the criteria determined by the national law governing the sign relied on*

(European Parliament and Council Regulation 2017/1001, Art. 8(4))

(see paragraphs 21, 22)

2. *EU trade mark – Definition and acquisition of the EU trade mark – Relative grounds for refusal – Opposition by the proprietor of an unregistered trade mark or other sign used in the course of trade – Word mark GARTENLÜX – Company name and trade name GARTENLUX*

(European Parliament and Council Regulation 2017/1001, Art. 8(4))

(see paragraphs 24-28)

Operative part

1. The action is dismissed.
2. Ms Andrea Nieß shall bear her own costs and pay those incurred by Terrasoverkapping-inkoop.nl BV.
3. The European Union Intellectual Property Office (EUIPO) shall bear its own costs.

¹ OJ C 24, 23.1.2023.