

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Peter Chung-Yuan Chang

By order of 15 November 2016 the Court of Justice (Seventh Chamber) held that the appeal was inadmissible.

Appeal brought on 2 September 2016 by the European Intellectual Property Office against the judgment of the General Court delivered on 29 June 2016 in Case T-567/14 GROUP v EUIPO — ILIEV (GROUP COMPANY TOURISM & TRAVEL)

(Case C-478/16 P)

(2017/C 078/10)

Language of the case: Bulgarian

Parties

Appellant: European Intellectual Property Office (EUIPO) (represented by: A. Folliard-Monguiral, D. Stoyanova-Valchanova)

Other parties to the proceedings: 'Group' OOD, Kosta Iliev

Form of order sought

EUIPO claims that the Court of Justice should:

- set aside the judgment under appeal;
- order Group OOD, applicant before the General Court, to bear the costs incurred by EUIPO.

Grounds of appeal and main arguments

EUIPO relies on two grounds of appeal, namely (i) an infringement of Article 76(2) of Regulation No 207/2009 ⁽¹⁾ in conjunction with Rule 50(1) of Regulation No 2868/95 ⁽²⁾, and (ii) an infringement of Article 8(4) of Regulation No 207/2009 in conjunction with Rule 19(2)(d) of Regulation No 2868/95.

Infringement of Article 76(2) of Regulation No 207/2009 in conjunction with Rule 50(1) of Regulation No 2868/95

- In the applicant's view, Article 8(4) of Regulation No 207/2009 expressly lays down four conditions which are cumulative and independent of one another, of which two are governed by EU law and the remaining two by the specific national legislation relied on in the opposition. The Court of Justice of the European Union has ruled that the opponent, in addition to satisfying the two conditions which are governed by the specific national legislation, must furnish evidence of the content of that legislation. They constitute prerequisites and independent requirements, a failure to satisfy which cannot be remedied before the Board of Appeal if the opponent did not provide details of that legislation in good time before the Opposition Division.
- To fall within the scope of Article 76(2) of Regulation No 207/2009 in conjunction with Rule 50(1) of Regulation No 2868/95, facts and evidence which are submitted for the first time before the Board of Appeal must complete or supplement the facts and documents already submitted with regard to the same requirement.
- The General Court wrongly assumed, in the appellant's view, that the submission of information regarding national legislation is generally a means of supplementing the evidence which has already been submitted in connection with the requirement laid down in Article 8(4) of Regulation No 207/2009.

- It further submits that the General Court failed to examine, and without good reason, whether there was a sufficiently close or any connection between what was submitted before the Board of Appeal in relation to the national legislation and the evidence submitted in good time before the Opposition Division. Where such a connection is lacking, then evidence is 'new' and not 'supplementary' or does not serve to 'complete' evidence previously submitted, as is required under Article 76(2) of Regulation No 207/2009.

Infringement of Article 8(4) of Regulation No 207/2009 in conjunction with Rule 19(2)(d) of Regulation No 2868/95

- EUIPO submits that, with its finding that there are no formal requirements in relation to the submission of evidence in respect of the national legislation relied on, the General Court acted contrary to Rule 19(2)(d) of Regulation No 2868/95. In order to ensure the rights of defence of the defendant in *inter partes* proceedings, it is necessary to observe such formal requirements.
- It further submits that, with regard to the principle of 'congruent forms', the requirements in relation to evidence of registration of a mark (Rule 19(2)(a), indent i, of Regulation No 2868/95) are applicable *mutatis mutandis* in relation to evidence of the provisions of the national legislation under which legal effects are granted to a non-registered trade mark.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (codified version) (Text with EEA relevance) (OJ 2009 L 78, p. 1).

⁽²⁾ Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

Appeal brought on 15 September 2016 by TeamBank AG Nürnberg against the judgment of the General Court (Fourth Chamber) delivered on 20 July 2016 in Case T-745/14: TeamBank v EUIPO — Easy Asset Management (EASY CREDIT)

(Case C-495/16 P)

(2017/C 078/11)

Language of the case: English

Parties

Appellant: TeamBank AG Nürnberg (represented by: D. Terheggen, Rechtsanwalt)

Other parties to the proceedings: European Union Intellectual Property Office (EUIPO), Easy Asset Management AD

The President of the Court has ordered that the case be removed from the register.

Request for a preliminary ruling from the Verwaltungsgerichtshof (Austria) lodged on 17 November 2016 — Firma Hans Bühler KG

(Case C-580/16)

(2017/C 078/12)

Language of the case: German

Referring court

Verwaltungsgerichtshof

Parties to the main proceedings

Appellant on a point of law: Firma Hans Bühler KG