

**Judgment of the General Court of 6 December 2017 — Tulliallan Burlington v EUIPO — Burlington Fashion (BURLINGTON THE ORIGINAL)**

(Case T-121/16) <sup>(1)</sup>

*(EU trade mark — Opposition proceedings — International registration designating the European Union — Figurative mark BURLINGTON THE ORIGINAL — Earlier national word marks BURLINGTON and BURLINGTON ARCADE — Earlier EU and national figurative marks BURLINGTON ARCADE — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Use in the course of trade of a sign of more than mere local significance — Article 8(4) of Regulation No 207/2009 (now Article 8(4) of Regulation 2017/1001) — Unfair advantage taken of the distinctive character or the repute of the earlier trade marks — Article 8(5) of Regulation No 207/2009 (now Article 8(5) of Regulation 2017/1001))*

(2018/C 032/31)

Language of the case: English

**Parties**

*Applicant:* Tulliallan Burlington Ltd (St Helier, Jersey) (represented by: A. Norris, Barrister)

*Defendant:* European Union Intellectual Property Office (represented by: M. Fischer, Agent)

*Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court:* Burlington Fashion GmbH (Schmallenberg, Germany) (represented by: A. Parr, lawyer)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 11 January 2016 (Case R 2501/2013-4), relating to opposition proceedings between Tulliallan Burlington and Burlington Fashion.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders Tulliallan Burlington Ltd to pay the costs.

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<sup>(1)</sup> OJ C 175, 17.5.2016.

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**Judgment of the General Court of 6 December 2017 — Tulliallan Burlington v EUIPO — Burlington Fashion (Burlington)**

(Case T-122/16) <sup>(1)</sup>

*(EU trade mark — Opposition proceedings — International registration designating the European Union — Figurative mark Burlington — Earlier national word marks BURLINGTON and BURLINGTON ARCADE — Earlier EU and national figurative marks BURLINGTON ARCADE — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Use in the course of trade of a sign of more than mere local significance — Article 8(4) of Regulation No 207/2009 (now Article 8(4) of Regulation 2017/1001) — Unfair advantage taken of the distinctive character or the repute of the earlier trade marks — Article 8(5) of Regulation No 207/2009 (now Article 8(5) of Regulation 2017/1001))*

(2018/C 032/32)

Language of the case: English

**Parties**

*Applicant:* Tulliallan Burlington Ltd (St Helier, Jersey) (represented by: A. Norris, Barrister)

*Defendant:* European Union Intellectual Property Office (represented by: M. Fischer, Agent)

*Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court:* Burlington Fashion GmbH (Schmallenberg, Germany) (represented by: A. Parr, lawyer)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 11 January 2016 (Case R 2409/2013-4), relating to opposition proceedings between Tulliallan Burlington and Burlington Fashion.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders Tulliallan Burlington Ltd to pay the costs.

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<sup>(1)</sup> OJ C 175, 17.5.2016.

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**Judgment of the General Court of 6 December 2017 — Tulliallan Burlington v EUIPO — Burlington Fashion (BURLINGTON)**

(Case T-123/16) <sup>(1)</sup>

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark BURLINGTON — Earlier national word marks BURLINGTON and BURLINGTON ARCADE — Earlier EU and national figurative marks BURLINGTON ARCADE — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Use in the course of trade of a sign of more than mere local significance — Article 8(4) of Regulation No 207/2009 (now Article 8(4) of Regulation 2017/1001) — Unfair advantage taken of the distinctive character or the repute of the earlier trade marks — Article 8(5) of Regulation No 207/2009 (now Article 8(5) of Regulation 2017/1001))

(2018/C 032/33)

*Language of the case:* English

**Parties**

*Applicant:* Tulliallan Burlington Ltd (St Helier, Jersey) (represented by: A. Norris, Barrister)

*Defendant:* European Union Intellectual Property Office (represented by: M. Fischer, Agent)

*Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court:* Burlington Fashion GmbH (Schmallenberg, Germany) (represented by: A. Parr, lawyer)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 11 January 2016 (Case R 1635/2013-4), relating to opposition proceedings between Tulliallan Burlington and Burlington Fashion.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders Tulliallan Burlington Ltd to pay the costs.

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<sup>(1)</sup> OJ C 175, 17.5.2016.