



Reports of Cases

Judgment of the General Court (Second Chamber) of 23 November 2018 – Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi v EUIPO – Papouis Dairies (fino Cyprus Halloumi Cheese)

(Case T-416/17)

(EU trade mark — Opposition proceedings — Application for EU figurative mark fino Cyprus Halloumi Cheese — Earlier EU collective word mark HALLOUMI — Relative ground for refusal — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

1. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Assessment of the likelihood of confusion — Determination of the relevant public — Attention level of the public*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 28, 29)

2. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Criteria for assessment*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see para. 44)

3. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Similarity of the marks concerned — Elements of a trade mark having a descriptive character*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 45, 49)

4. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Similarity of the marks concerned — Criteria for assessment — Composite mark — Assessment of the distinctiveness of an element composing a trade mark*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 46-48)

5. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Similarity of the marks concerned — Criteria for assessment — Composite mark — Determination of the dominant elements*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see para. 51)

6. *EU trade mark — Definition and acquisition of the EU trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Figurative mark *fino* Cyprus Halloumi Cheese and word mark HALLOUMI*

(Council Regulation No 207/2009, Art. 8(1)(b))

(see paras 59, 61, 62, 64, 66-68)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 20 April 2017 (Case R 2759/2014-4) concerning opposition proceedings between the Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi and Papouis Dairies.

Operative part

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 20 April 2017 (Case R 2759/2014-4) concerning opposition proceedings between the Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi and Papouis Dairies Ltd;

2. Orders EUIPO to bear its own costs and to pay those incurred by the Foundation for the Protection of the Traditional Cheese of Cyprus named Halloumi;
3. Orders Papouis Dairies to bear its own costs.