



Reports of Cases

Judgment of the General Court (Third Chamber) of 11 July 2018 – Enoitalia v EUIPO — La Rural Viñedos y Bodegas (ANTONIO RUBINI)

(Case T-707/16)

(EU trade mark — Invalidity proceedings — EU word mark ANTONIO RUBINI — Earlier EU figurative mark RUTINI — Relative ground for refusal — Likelihood of confusion — 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 — Criteria for assessment*

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

(see paras 16, 17, 69, 76)

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 — Assessment of the likelihood of confusion — Attention level of the public*

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

(see para. 22)

3. *EU trade mark — Surrender, revocation and invalidity — Relative grounds for invalidity — Existence of an identical or similar earlier mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Word mark ANTONIO RUBINI and figurative mark RUTINI*

(Council Regulation No 207/2009, Arts 8(1)(b) and 53(1)(a))

(see paras 23, 26, 41-44, 51, 58, 64-68, 78-80)

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 27, 28, 38-40, 46)

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 — Likelihood of confusion with the earlier mark — Similarity of the marks concerned — Whether conceptual differences may neutralise visual or aural similarities — Conditions*

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

(see para. 63)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 28 June 2016 (Case R 1085/2015-5), relating to invalidity proceedings between La Rural Viñedos y Bodegas and Enoitalia.

Operative part

The Court:

1. Dismisses the action;
2. Orders Enoitalia SpA to pay the costs.