



Reports of Cases

Judgment of the General Court (Fourth Chamber) of 8 February 2019 – Serendipity and Others v EUIPO – CKL Holdings (CHIARA FERRAGNI)

(Case T-647/17)

(EU trade mark — Opposition proceedings — Application for EU figurative mark CHIARA FERRAGNI — Earlier Benelux word mark Chiara — Relative ground for refusal — No likelihood of confusion — 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, 77)

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 — Determination of the relevant public — Attention level of the public*

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

(see para. 19)

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 between the goods or services in question — Criteria for assessment*

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

(see para. 22)

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*

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

(see paras 25-27)

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 — Assessment of the distinctiveness of an element composing a trade mark*

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

(see para. 36)

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 CHIARA FERRAGNI and word mark Chiara*

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

(see paras 40, 41, 47-49, 53, 61, 70-74, 76, 83-87)

7. *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 — Visual similarity between a figurative mark and a word mark*

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

(see para. 42)

8. *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 — Weighing elements of similarity or difference between the signs — Taking into account of the intrinsic characteristics of the signs or the conditions in which the goods or services are marketed*

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

(see para. 82)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 17 July 2017 (Case R 2444/2016-4) relating to opposition proceedings between, on the one hand, CKL Holdings and, on the other hand, Serendipity and Messrs Morgese.

Operative part

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 17 July 2017 (Case R 2444/2016-4);
2. Orders EUIPO to bear its own costs and to pay those incurred by Serendipity Srl, Mr Giuseppe Morgese and Mr Pasquale Morgese.