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# Heartfulness creator fails to prove that mark functions as source indicator

European Union - [NJORD](#)

- **The General Court has confirmed the refusal to register the mark HEARTFULNESS based on lack of distinctiveness and descriptiveness**
- **The fact that the mark was created by the applicant to designate a particular meditation/relaxation method cannot mean that it should automatically benefit from registration as an EUTM**
- **The mark did not function as an indicator of the goods/services offered by the applicant**

In [Sahaj Marg Spirituality Foundation v European Union Intellectual Property Office](#) (EUIPO) (Case T-48/20, 3 March 2021), the General Court has affirmed a decision of the Fourth Board of Appeal of the EUIPO refusing to register the figurative mark HEARTFULNESS due to descriptiveness and lack of distinctiveness.

## Background

Sahaj Marg Spirituality Foundation applied for the registration of a figurative mark consisting of the word 'heartfulness' in rather plain lettering:

Heartfulness

The application covered the following goods/services:

- Class 16: "Printed matter; instructional and teaching materials";
- Class 41: "Education; providing of training and cultural activities";
- Class 45: "Consultancy services in spirituality".

The EUIPO examiner refused the application on the basis of both lack of distinctiveness and descriptiveness pursuant to Article 7(1)(b) and (c) and (2) of Regulation 2017/1001. Sahaj Marg appealed, but the Fourth Board of Appeal of the EUIPO dismissed the appeal.

The Board of Appeal considered that the word 'heartfulness' described a particular relaxation and meditation technique and informed the consumer, directly and without the need for further reflection, that the goods and services in question concerned that technique. That word provides sufficient information to the relevant public to allow it immediately to perceive, without further thought, that the services in question are centred or based on the type of meditation known as 'heartfulness' meditation and that the goods in question concern that type of meditation. The relationship between the mark applied for and the subject matter or purpose of the goods and services in question was therefore sufficiently direct to be descriptive of those goods and services, despite the fact that the relevant public does not know how the meditation is practised or what the method used exactly consists of. Accordingly, the mark was considered to be descriptive and devoid of distinctiveness.

## General Court decision

Sahaj Marg appealed further to the General Court, claiming that the EUIPO had failed to take into account the fact that the word 'heartfulness' was created and published by Sahaj Marg itself in order to designate a particular relaxation and meditation technique and that, therefore, consumers identified Sahaj Marg with the mark applied for. In this regard, Sahaj Marg documented that the internet links mentioned by the examiner also refer to Sahaj Marg itself.

The court noted that the fact that the mark applied for was created by Sahaj Marg to designate a particular meditation or relaxation method cannot mean that the mark in question should automatically benefit from registration as an EU trademark (EUTM). The mark applied for must enable the relevant public immediately to perceive the mark as an indication of goods or services offered by the holder of that mark and thus to distinguish them from the same goods and services that have a different commercial origin. Here, the court noted that Sahaj Marg itself confirmed that the word 'heartfulness' refers to a particular relaxation and meditation technique and not as an indicator of the goods and services that it offers. Accordingly, the Board of Appeal was right to refuse registration of the mark on descriptiveness grounds.

Having affirmed that the mark was descriptive, the court stated it did not have to rule on the lack of distinctiveness claim.

Finally, Sahaj Marg argued that the rejection of HEARTFULNESS was inconsistent with prior decisions concerning EUTM registrations comprising the word 'heart'. However, the court referred firstly to case law holding that the EUIPO is not bound by prior decisions, and then found that the Board of Appeal had indeed taken into account the previous decisions relied on by Sahaj Marg.

Accordingly, the General Court dismissed the appeal.

## Comment

This decision is interesting in that it shows that it is not enough to document that the trademark owner is recognised as the creator of a new technique - the mark must also function as an indicator of source, namely of the trademark owner's goods/services related to the new technique.

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