



General Court: EUIPO can ignore absolute ground for invalidity if relative ground is sufficient

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Legal updates: case law analysis and intelligence

- CCVI sought the cancellation of the mark CCTY based on a likelihood of confusion with its earlier mark CCVI and on the mark owner's bad faith
- The EUIPO declared the mark invalid based on relative grounds only
- The General Court held that the EUIPO was entitled to find that the mark was invalid based on relative grounds only, and did not to have to consider the absolute ground of bad faith

In its 13 July 2022 judgment in [CCTY Bearing Company v European Union Intellectual Property Office](#) (EUIPO) (Case T-176/21), the General Court has upheld a decision of the Fourth Board of Appeal of the EUIPO, finding that the word mark CCTY was confusingly similar to CCVI BEARING INDUSTRIES and device.

Background

In 2013 CCTY Bearing Company ('CCTY') registered the word mark CCTY for, among other items, "ball bearings" in Class 7. CCVI International Srl ('CCVI') lodged a cancellation action based on two grounds:

1) its prior EU trademark for the figurative mark CCVI BEARING INDUSTRIES (depicted below), which was registered for identical or highly similar goods:



2) CCTY's bad faith.

The Cancellation Division of the EUIPO upheld the cancellation action and declared the contested mark invalid in respect of all the registered goods, due to a likelihood of confusion with the prior mark. Having declared the registration invalid based on relative grounds, the Cancellation Division did not examine the absolute ground of bad faith.

CCTY appealed, contesting the likelihood of confusion finding and arguing that CCVI had submitted misleading evidence with regard to the bad-faith claim, which constituted an "abuse of rights".

On the likelihood of confusion, the Fourth Board of Appeal of the EUIPO found that the goods in Class 7 were intended for industrial or technical use and were aimed at a professional public. As regards the similarity of marks, the board found that the marks at issue were visually similar to an average degree, were phonetically similar to an above-average degree and were not comparable conceptually, since they did not convey any meaning. The board found that the earlier mark was inherently distinctive to a normal degree and, accordingly, it concluded that the Cancellation Division had been correct in finding that there was a likelihood of confusion on the part of the English-speaking part of the relevant public in respect of all the goods covered by the contested mark.

On CCTY's claim that CCVI had filed misleading evidence, the Board of Appeal rejected the argument that the application for a declaration of invalidity had been vitiated by the submission of misleading evidence, which constituted an abuse of rights within the meaning of EU law.

CCTY appealed to the General Court, but did not fare much better.

General Court decision

As to the abuse of rights claim, CCTY argued that CCVI had lied about the business reports and relationships that existed, prior to the filing of the application for registration of the contested mark, between CCVI and a Chinese shareholder company, with the aim of hiding from the Cancellation Division the objective and justified reasons which had motivated it to register the sign CCTY.

The General Court held that both the Cancellation Division and the Board of Appeal were entitled to find that the registration at issue was invalid based on the relative grounds of CCVI's prior mark alone, and did not have to adjudicate the absolute ground of bad faith. Having agreed with the board as regards the likelihood of confusion, the court rejected the appeal.

Comment

This case is interesting in that it shows that the EUIPO will enforce prior rights - here, it found a likelihood of confusion between CCVI BEARING INDUSTRIES (and device) and CCTY due to its methodical analysis. The case also shows that the EUIPO operates efficiently and does not have to adjudicate what it considers to be pointless arguments, if its decision on one point renders another issue moot.

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