



Press and Information

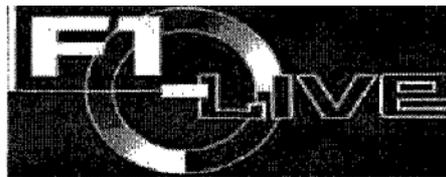
General Court of the European Union
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Judgment in Case T-10/09
Formula One Licensing BV v OHIM

Formula One Licensing cannot prevent the registration of a Community trade mark containing the words 'F1 LIVE'

There is no likelihood of confusion between the mark applied for and Formula One Licensing's marks, given the low degree of similarity between the marks and the descriptive character that the public attributes to the abbreviation 'F1'

In April 2004, Racing-Live SAS filed an application with OHIM (the Community trade mark office) for registration of the following figurative sign as a Community trade mark for goods and services related to Formula 1 matters, namely magazines, books and publications, reservation of tickets for events and arranging competitions on the Internet:



However, Formula One Licensing BV opposed that application. The opposition was based on the existence of an earlier international word mark and two national word marks for 'F1' and the following Community figurative mark, the F1 Formula 1 logotype:



In October 2008, OHIM rejected the opposition, stating that because of the obvious differences between the mark applied for, on the one hand, and those owned by Formula One Licensing, on the other, there was no likelihood of confusion between them. Furthermore, OHIM found that the public perceived the combination of the letter 'F' and the numeral '1' as the generic designation of a category of racing car and, by extension, of races involving such cars. OHIM also concluded that the F1 Formula 1 logotype was the only mark with a reputation and that few consumers would attribute the abbreviation 'F1' with distinctive character, unless it is represented in a manner such as the logotype.

Formula One Licensing applied to the General Court to have OHIM's decision annulled.

In its judgment today, **the General Court dismisses the action and upholds OHIM's decision.**

The General Court finds that OHIM was correct in making a distinction between the sign F1 as a word and the sign F1 as a logotype and in concluding that the public would perceive the logotype as the trade mark that Formula One Licensing uses in relation to its commercial activities and the term 'F1' as the commonly used designation of a category of racing car and of races involving such cars.

In that connection, the General Court notes that, over the past 10 years, Formula One Licensing has promoted only the F1 logotype and that, when granting licences, it has emphasised that logotype by issuing strict rules on its usage to ensure that the public has consistently seen the F1 logotype and not other versions of that sign. However, it has not imposed rules regarding the use of other versions of the F1 sign and that sign is always used by Formula One Licensing in combination with the logo.

OHIM was therefore right to find that the designation 'F1', in ordinary typeset, had only a weak distinctive character in relation to the goods and services covered and that the reputation of the Community figurative mark used in the European Union was essentially linked to the logo itself. In consequence, Formula One Licensing's arguments that the designation 'F1' has a particularly pronounced distinctive character and that 'F1', in standard typeset, has a reputation equal to that of the F1 Formula 1 logotype must be rejected as unfounded.

The General Court finds that the degree of similarity between, on the one hand, Formula One Licensing's 'F1' word marks and, on the other, the figurative mark applied for – which, moreover, contains the word 'LIVE' – is weak.

It follows that there is no likelihood of confusion between the 'F1' word marks and the figurative mark applied for, since consumers will not connect the 'F1' element in the mark applied for with Formula One Licensing because the only sign that they have learned to associate with the latter is the logotype and they will regard the designation 'F1' in ordinary typeset as descriptive.

As regards the Community figurative mark (the F1 Formula 1 logotype), the General Court also holds that there is no likelihood of confusion between that mark and the mark applied for since there is no visual similarity between them and there are only limited phonetic and conceptual similarities.

The General Court adds that the fact that the public attributes a generic meaning to the F1 sign means that it will understand that the mark applied for concerns Formula 1. Nevertheless, because of its totally different layout, the public will not make a connection between that mark and the activities of Formula One Licensing.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

NOTE: Community trade marks are valid throughout the European Union and co-exist with national trade marks. Applications for registration of a Community trade mark are sent to OHIM. Actions against its decisions may be brought before the General Court.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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