



Press and Information

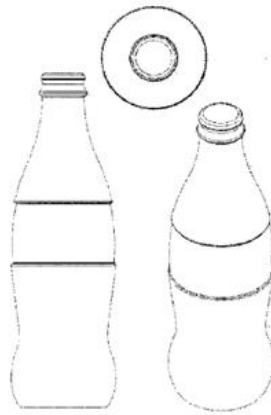
General Court of the European Union
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Judgment in Case T-411/14
The Coca-Cola Company v OHIM

The General Court dismisses the action brought by Coca-Cola seeking registration of a contour bottle without fluting as a Community trade mark

The mark sought is devoid of distinctive character

In December 2011, The Coca-Cola Company (Coca-Cola) applied to the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) for registration as a Community trade mark of the following three-dimensional sign for, inter alia, metallic, glass and plastic bottles:



In March 2014, OHIM rejected the application for registration on the ground that the mark sought was devoid of any distinctive character in respect of the goods covered by the application. OHIM did not accept Coca-Cola's argument that the mark sought should be regarded as a natural evolution of its famous iconic bottle (that is, the contour bottle with fluting).

Coca-Cola brought an action before the General Court for the annulment of OHIM's decision.

In today's judgment, the General Court confirms that the bottle does not possess any characteristics that distinguish it from other bottles available on the market. The mark sought is thus a mere variant of the shape of a bottle which does not enable the consumer to distinguish Coca-Cola's goods from those of other undertakings.

Accordingly, the General Court finds that the sign at issue is devoid of the distinctive character required for registration under the Community trade mark regulation¹. It also states that Coca-Cola has failed to establish that the sign had acquired distinctive character through use.

In those circumstances, **the General Court dismisses in its entirety the action brought by Coca-Cola.**

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.

¹Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

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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