



Press and Information

General Court of the European Union

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Judgment in Case T-408/15

Globo Comunicação e Participações S.A. v EUIPO

According to the General Court of the European Union, the standard ringing of an alarm or a telephone may not be registered as an EU trade mark on account of its banality

In 2014, the Brazilian company Globo Comunicação e Participações requested that EUIPO (European Union Intellectual Property Office, formerly OHIM) register the following sound sign in respect of, inter alia, media for the dissemination of information electronically, orally or by means of television (for example, applications for tablets and smartphones):



The sign was, in essence, intended to be used as the ringing of an alarm or a telephone.

EUIPO refused to register that sign as an EU trade mark on the ground that it had no distinctive character. In particular, EUIPO observed that the mark applied for was a banal and commonplace ringtone which would generally go unnoticed and would not be remembered by the consumer.

Globo Comunicação e Participações brought an action for annulment of that decision before the General Court of the European Union.

In its judgment delivered today, **the Court confirms EUIPO's decision** and dismisses the action brought by Globo Comunicação e Participações.

The Court states first of all that **sounds may constitute a trade mark**, provided that they may be represented graphically, which is the case in this instance because the mark applied for is represented in the form of musical notes on a staff, accompanied by a clef, rests and accidentals.

The Court also takes the view that the mark applied for will be perceived by the general public only as a mere function of the goods and services covered and not as an indication of their commercial origin. It is the **'standard' ringing sound** with which all electronic devices equipped with a timer and all telephony apparatus are provided, with the result that **the public will be unable**, without prior knowledge, **to identify that ringing sound as indicating that the goods and services come from Globo Comunicação e Participações**. On account of the fact that the mark applied for amounts to the ringing of an alarm or telephone which does not have any inherent characteristic which is separate from the repetition of the note of which it consists (two G sharps) and would serve to identify anything other than that ringing of an alarm or telephone, the Court holds **that it will generally go unnoticed and will not be remembered by the consumer**.

As regards the television broadcasting services and the services which may be provided in the form of television programmes, the Court applies the same reasoning by stating that the sound

mark, owing to its banality, will be perceived by the public as indicating the beginning or end of a television programme.

Since the mark applied for is devoid of any distinctive character, the Court holds that **EUIPO did not err in refusing to register it.**

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 EU 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: EU trade marks are valid throughout the EU and co-exist with national trade marks. Applications for registration of an EU trade mark are sent to EUIPO. 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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