



PRESS RELEASE No 43/24

Luxembourg, 6 March 2024

Judgment of the General Court in Case T-647/22 | Puma v EUIPO – Handelsmaatschappij J. Van Hilst (Shoes)

The prior disclosure of a Puma shoe model by the artist Rihanna results in the invalidity of a registered Community design

The General Court upholds the decision of the European Union Intellectual Property Office (EUIPO)

By decision of EUIPO of 11 August 2022, Handelsmaatschappij J. Van Hilst ('HJVH') obtained a declaration of invalidity of a Community design for sports shoes which had been registered for Puma in August 2016. In support of its decision, EUIPO observed that Robyn Rihanna Fenty ('Rihanna') had worn shoes showing a prior design with the same features as the registered design 12 months before the application for registration was filed. In those circumstances, EUIPO took the view that that prior design had been made public, which justified the invalidity of the registered design.

The General Court dismisses the action brought by Puma against that decision.

In support of its application for a declaration of invalidity, HJVH had, inter alia, submitted images taken from the Instagram account 'badgalriri' which were dated mid-December 2014 and which related to Rihanna's appointment as Puma's new creative director. Those images showed Rihanna wearing a pair of white trainers with a thick black sole. Those images were reproduced in several articles in online newspapers.

The General Court upholds EUIPO's assessment that those images are sufficient to demonstrate the disclosure of the prior design and that that disclosure could have become known to the circles specialised in the sector concerned. In that regard, it states that the images taken from the Instagram account named 'badgalriri', published in December 2014, make it possible to identify, with the naked eye or by enlarging those photos, all essential features of the prior design.

In that context, the General Court rejects Puma's arguments that nobody took an interest in Rihanna's shoes in December 2014 and that nobody therefore perceived the prior design. In December 2014, Rihanna was a world-famous pop star, which means that her fans and the circles specialised in the fashion sector had, at that time, developed a particular interest in the shoes that she wore on the day on which the contract under which the star became Puma's creative director was signed.

In view of those considerations, **according to the General Court**, EUIPO was entitled to find that **the prior design had been disclosed in December 2014 in such a way as to allow the registered design to be declared invalid.**

NOTE: EU trade marks and Community designs are valid for the entire territory of the EU and coexist with national trade marks and designs. Applications for registration of an EU trade mark or Community design are addressed to EUIPO. Actions against its decisions may be brought before the General Court.

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: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within 2 months and 10 days of notification of the decision. The appeal will not proceed unless the Court first decides that it should be allowed to do so. Accordingly, it must be accompanied by a request that the appeal be allowed to proceed, setting out the issue(s) raised by the appeal that is/are significant with respect to the unity, consistency or development of EU law.

Unofficial document for media use, not binding on the General Court.

The [full text and, as the case may be, an abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106.

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