



## PRESS RELEASE No 86/25

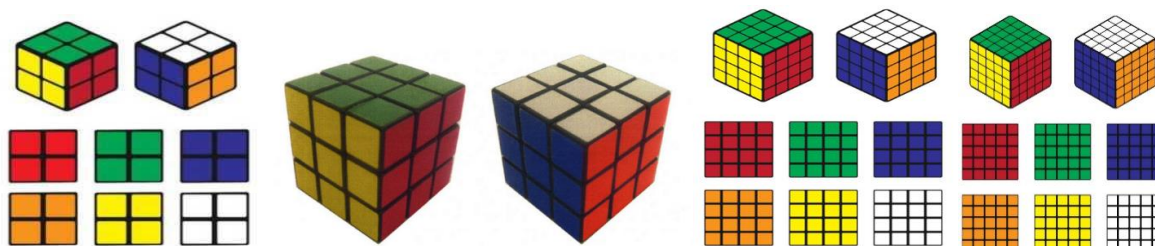
Luxembourg, 9 July 2025

Judgments of the General Court in Cases T-1170/23 to T-1173/23 | Spin Master Toys UK v EUIPO – Verdes Innovations (Shape of a cube with faces having a grid structure)

### EU trade marks: the General Court confirms the annulment of trade marks consisting of the shape of the ‘Rubik’s cube’

*As the essential characteristics of that shape are necessary to obtain a technical result, it should not have been registered as an EU trade mark*

In 2013, Verdes Innovations SA filed four applications with the European Union Intellectual Property Office (EUIPO) for a declaration of invalidity of the EU trade marks registered by the predecessor to Spin Master Toys UK between 2008 and 2012 for ‘three-dimensional puzzles’, in respect of the following three-dimensional signs:



EUIPO upheld the applications for a declaration of invalidity of the contested marks. <sup>1</sup> It considered that the colours of the squares on each face of the cube were an essential characteristic of the trade marks and formed an integral part of their shape. It found that the combination of the six different colours was necessary to obtain a technical result and concluded, in essence, that those marks had been registered contrary to EU law.

Spin Master Toys UK challenged those decisions before the General Court of the European Union, arguing that the contested marks have essential characteristics which do not consist exclusively of the shape and which, in any event, are not necessary to obtain a technical result.

#### **The General Court dismisses those actions, thereby confirming the decisions of EUIPO.**

As a preliminary point, the General Court recalls that the ground for refusal whereby signs which consist exclusively of the shape of goods which is necessary to obtain a technical result are not to be registered applies if all the essential characteristics of the shape in question are functional. In that context, the expression ‘essential characteristics’ must be understood as referring to the most important elements of the sign, as opposed to minor arbitrary elements.

In the first place, **it holds that the six specific colours placed on the faces of the cube and their alleged ‘specific arrangement’ do not constitute an essential characteristic of the contested marks.** Those elements are of minor and secondary importance **in relation to the cube shape, the grid structure and the differentiation of the faces of the cube, which, by contrast, are the essential characteristics of the trade**

**marks.** The six basic colours merely perform the function of distinguishing the different faces of the cube by means of a contrasting effect.

In the second place, the General Court observes that the third essential characteristic, namely **the differentiation of the small squares on each face of the cube by means of six basic colours, is inherent in and inseparable from the shape represented and forms an integral part of that shape.** It holds that the addition of six basic colours, in an unclear arrangement, to the functional three-dimensional shape, which is clearly defined and represented by the functional lines of the grid, does not preclude the contested marks from being **signs which consist exclusively of a shape.**

In the third place, the General Court concludes that all the essential characteristics of that shape are necessary to obtain a technical result. In particular, it considers that the technical function of the third essential characteristic is to make it possible to distinguish, by means of a contrasting effect, each face of the cube, as well as each of the small squares of the grid structure appearing on each of those faces.

**NOTE:** EU trade marks and Community designs are valid for the entire territory of the European Union. EU trade marks coexist with national trade marks. Community designs coexist with national designs. Applications for registration of EU trade marks and Community designs 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 EU institutions, bodies, offices and agencies 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:** 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 and ten 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.

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The full text and, as the case may be, the abstract of the judgments ([T-1170/23](#) , [T-1171/23](#) , [T-1172/23](#) and [T-1173/23](#)) are 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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<sup>1</sup> The proceedings had for a long time been suspended pending a final decision on the application for a declaration of invalidity against the three-dimensional EU trade mark representing, in black and white, a three-dimensional puzzle known as Rubik's Cube, by the judgment of 24 October 2019, *Rubik's Brand v EUIPO – Simba Toys (Shape of a cube with surfaces having a grid structure)*, [T-601/17](#) (see also Press Release [No 131/19](#)). The Court of Justice did not allow the appeal against that judgment of the General Court to proceed (*Rubik's Brand v EUIPO*, [C-936/19 P](#)).