



Press and Information

General Court of the European Union
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Judgment in Case T-232/10
Couture Tech Ltd v OHIM

The Soviet coat of arms may not be registered as a Community trade mark

Its registration as a Community trade mark must be refused even if it is contrary to public policy and to accepted principles of morality in only one Member State.

The Community Trade Mark Regulation¹ provides that a mark must be refused registration on certain grounds expressly laid down in that regulation. That is the case in particular if the mark is contrary to public policy and to accepted principles of morality, even if those grounds exist in only part of the European Union.

In 2006 Couture Tech Ltd, a company linked to the international business of a Russian designer, submitted an application to the Community trade mark office (OHIM) for registration of this figurative sign as a Community trade mark:



OHIM rejected that application on the ground that the mark applied for consisted of an exact representation of the coat of arms of the former USSR. Relying on legislation and administrative practice in certain Member States - namely, Hungary, Latvia and the Czech Republic - OHIM held that the symbols in question would be seen as contrary to public policy and to accepted principles of morality by a substantial section of the relevant public living in the part of the European Union which had been subject to the Soviet regime.

Couture Tech Ltd brought an action for annulment of that decision before the General Court.

In its judgment today, the General Court finds, first, that a mark must be refused registration if it is contrary to public policy or to accepted principles of morality in part of the European Union and that part may, in some circumstances, be comprised of a single Member State.

Next, the General Court observes that the concepts of 'public policy' and 'accepted principles of morality' must be interpreted not only with reference to the circumstances common to all Member States but by taking into account the particular circumstances of individual Member States which are likely to influence the perception of the relevant public within those States. The General Court states that, in so far as the Community trade mark regime is an autonomous system which applies independently of any national system, the legislation and administrative practice of certain Member States were taken into account in the present case, not because of their normative value, but as

¹ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1)

evidence of facts which made it possible to assess the perception of symbols connected with the former USSR by the relevant public within those Member States.

Finally, the General Court holds that OHIM did not commit an error of assessment in finding, on the basis of an analysis of the evidence relating to the situation in Hungary in particular, that the mark applied for was contrary to public policy and to accepted principles of morality in the perception of the relevant public. According to Hungarian legislation, the sickle, the hammer and the five-point red star are considered to be 'symbols of despotism' and their use is contrary to public policy.

The General Court rules that, in so far as the registration of a mark must be refused if it is contrary to public policy and to accepted principles of morality in only part of the European Union - including in a single Member State -, there is no need to analyse other elements relating to the perception of the relevant public in Latvia and the Czech Republic.

Consequently, the General Court dismisses the action by Couture Tech Ltd.

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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