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**The Royal Shakespeare Company obtains the invalidation of the Community trade mark ROYAL SHAKESPEARE which another company had registered in respect of beverages**

*The General Court concludes that OHIM was right to decide that there was a strong likelihood that the use of that mark would take unfair advantage of the repute of the earlier Community trade mark RSC-ROYAL SHAKESPEARE COMPANY*

Jackson International Trading, an Austrian company, filed an application with OHIM, the Community trade mark office, for registration of the word sign ROYAL SHAKESPEARE as a Community trade mark in respect of alcoholic beverages (including beer and Scotch Whisky) and non-alcoholic beverages (mineral water, fruit juices, etc) and of providing food and drink. OHIM registered that mark in 2003.

In 2006, the Royal Shakespeare Company asked OHIM to declare that mark invalid, in particular because its use would take unfair advantage of the repute of its earlier trade marks in the United Kingdom, including the Community trade mark RSC-ROYAL SHAKESPEARE COMPANY, registered in 1999 in respect of theatre productions in particular. By decision of 19 November 2009, the Board of Appeal of OHIM declared the trade mark ROYAL SHAKESPEARE invalid, on the ground that there was a strong likelihood that the use of that mark would take unfair advantage of the repute of the earlier trade mark RSC-ROYAL SHAKESPEARE COMPANY.

In today's judgment, the General Court upholds that decision to declare the mark invalid and dismisses the action which Jackson International Trading had brought against it.

The Court finds, first, that the Board of Appeal of OHIM was right to find that the two marks were similar and to conclude that there was a likelihood of association. As the contested trade mark is exclusively made up of the central and distinctive element of the earlier trade mark, namely the expression 'royal shakespeare', the two marks are visually, phonetically and conceptually similar, to the extent that the average consumer will establish a link between them.

Second, the Board of Appeal of OHIM was right to find that the reputation of the earlier Community trade mark extends to the public at large. The case concerns above all the reputation of the earlier trade mark for theatre productions, which are, contrary to what Jackson International Trading claims, services aimed at the public at large, and not merely at a limited number of consumers or an elite.

Third, the Court emphasises that Jackson International Trading does not contest the Board of Appeal of OHIM's conclusion that the trade mark RSC-ROYAL SHAKESPEARE COMPANY has an 'exceptional' reputation in the United Kingdom for 'theatre productions'. Moreover, it notes that that reputation is sufficient to establish a reputation at EU level.

Fourth, by using the contested trade mark, Jackson International Trading would benefit from the power of attraction, the reputation and the prestige of the earlier trade mark for its own goods (beer and other beverages) and for its services. In the beverages market, those goods would attract the consumer's attention thanks to the association with the RSC and its earlier trade mark, which would give Jackson International Trading a commercial advantage over its competitors' goods.

That economic advantage would consist of exploiting the effort expended by the RSC in order to establish the reputation and the image of its earlier trade mark, without paying any compensation in exchange. That would equate to an unfair advantage taken by Jackson International Trading of the repute of the earlier trade mark.

Fifth, the Court finds that the Board of Appeal of OHIM was right to hold that Jackson International Trading had not established due cause for the use of the contested trade mark.

Accordingly, the Board of Appeal of OHIM was right to declare invalid the trade mark ROYAL SHAKESPEARE which OHIM had previously registered for Jackson International Trading.

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**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.

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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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