



Press and Information

General Court of the European Union

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Judgment in Case T-364/13

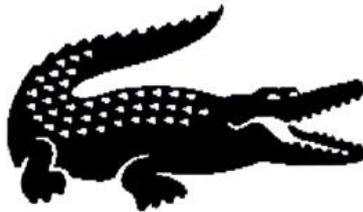
Eugenia Mocek, Jadwiga Wenta KAJMAN Firma Handlowo-Uslugowo-Produkcyjna v OHIM

The General Court considers that the repute of the Lacoste crocodile is such as to prevent the registration of crocodile or caiman figures for leather goods, clothing and footwear

In 2007, the Polish company Eugenia Mocek, Jadwiga Wenta KAJMAN Firma Handlowo-Uslugowo-Produkcyjna ('Mocek and Wenta') applied to OHIM, the EU's trade mark Office to register the following figurative sign as a Community trade mark for various goods and services (in particular, bags, clothing and cushions for pets, footwear and real estate lettings):



The French company Lacoste filed a notice of opposition to that application for registration, relying on an earlier Community trade mark which it owns:



OHIM upheld Lacoste's opposition in part by refusing to register the sign of Mocek and Wenta for leather goods, clothing and footwear. Mocek and Wenta then applied to the General Court to have OHIM's decision annulled.

By today's judgment, **the Court** dismisses the action and **thus upholds the refusal to register the sign of Mocek and Wenta for leather goods, clothing and footwear.**

The Court examines first of all whether there is a likelihood of confusion between the signs at issue, which might be the case if they have a certain degree of visual, phonetic and conceptual similarity. Like OHIM, the Court considers, in the first place, that the signs at issue have a low degree of visual similarity, given that both signs have in common a representation of a reptile of the order of crocodylians and that the general public keeps in mind only an imperfect picture of a mark (in both cases, the representation of a reptile of the order of crocodylians, presented in profile with its tail curved). Next, the Court considers that the phonetic aspect is not relevant, since the Lacoste mark does not contain any verbal elements, unlike the mark applied for. Finally, the Court confirms

that, conceptually, the signs at issue have at least an average degree of similarity, given that the figurative elements of each of those signs refer to the concept of a reptile of the order of crocodilians.

Next the Court examines whether the low degree of visual similarity and the average degree of conceptual similarity of the signs at issue lead to the conclusion that there is a likelihood of confusion between those signs, bearing in mind the undisputed fact that Lacoste's mark has acquired through use a highly distinctive character for leather goods (in particular bags), clothing and footwear. **The Court considers that, as regards those three types of goods, there is a likelihood of confusion, given that the general public is likely to believe that the goods bearing the signs at issue come from the same undertaking or from economically-linked undertakings.** In particular, the Court considers that **the representation of the Mocek and Wenta caiman might be perceived as a variant of the representation of the Lacoste crocodile, the latter being widely known to the public.**

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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