



Press and Information

General Court of the European Union
PRESS RELEASE No 24/18
Luxembourg, 1 March 2018

Judgment in Cases T-85/16 and T-629/16
Shoe Branding Europe BVBA v EUIPO

adidas may oppose the registration, as an EU trade mark, of two parallel stripes on shoes

The marks applied for in the case risk taking unfair advantage of adidas' earlier mark representing three parallel stripes on a shoe

In 2009 and 2011, the Belgian company Shoe Branding Europe filed an application with the European Union Intellectual Property Office (EUIPO)¹ for registration of two EU trade marks (illustration below, left), one for footwear and the other for safety footwear. The German company adidas opposed registration of those trade marks relying, inter alia, on one of its marks reproduced below on the right:



Mark sought to be registered by Shoe Branding Europe



Mark relied on by adidas to oppose the applications from Shoe Branding Europe

By decisions of 2015 and 2016, EUIPO allowed adidas' oppositions and refused registration of the two marks applied for by Shoe Branding Europe.

In particular, EUIPO considered that, given a certain degree of similarity between the marks at issue, the identity² or the similarity³ between the goods covered by those marks and the high reputation of adidas' earlier mark, there was a likelihood that the relevant public might establish a link between the marks at issue and that the use of the marks applied for could take unfair advantage of the reputation of adidas' mark, without that use being, in the case at hand, justified by due cause.

By today's judgments, the General Court dismisses the actions brought by Shoe Branding Europe against EUIPO's two decisions and thereby confirms the latter.

According to the Court, EUIPO did not commit an error of assessment in finding, in particular, (i) it likely that the use of the marks applied for would take unfair advantage of the repute of adidas' mark and (ii) that Shoe Branding Europe had not demonstrated the existence of due cause for the use of the marks applied for.

So far as concerns the mark applied for by Shoe Branding Europe in 2009 for footwear, it should be recalled that the General Court is ruling on this subject for the second time. By judgment of 21 May 2015,⁴ the General Court had annulled a previous EUIPO decision which had incorrectly

¹ At the time, the Office was still called the Office for Harmonisation in the Internal Market (OHIM).

² As far as footwear is concerned.

³ As far as safety footwear is concerned.

⁴ Case: [T-145/14](#) adidas v OHIM.

found that there was no similarity whatsoever between the marks at issue. That judgment of the General Court was upheld by the Court of Justice by order of 17 February 2016⁵ (for details, see Press Release No. [17/16](#)).

NOTE: EU trade marks are valid throughout the European Union and co-exist with national trade marks. Applications for registration of an EU trade mark are sent to EUIPO. Actions against its decisions may be brought before the General Court.

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.

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

The full text of the judgments [T-85/16](#) and [T-629/16](#) is published on the CURIA website on the day of delivery

Press contact: Holly Gallagher 📞 (+352) 4303 3355

⁵ Case: [C-396/15 P](#) Shoe Branding Europe v adidas.