



Press and Information

General Court of the European Union
PRESS RELEASE No 29/18
Luxembourg, 8 March 2018

Judgment in Case T-665/16
Cinkciarz.pl sp. z o.o. v EUIPO

The General Court annuls the refusal to register, as an EU trade mark, a figurative mark including the currency symbols ‘€’ and ‘\$’

EUIPO did not give sufficient reasons for its refusal decision

In 2015, the Polish company Cinkciarz.pl asked the European Union Intellectual Property Office (EUIPO) to register the following EU trade mark for software, financial services, including foreign exchange, and publications:



EUIPO refused to register that sign as an EU trade mark because of its descriptive character and also because it lacked distinctive character. According to EUIPO, the figurative elements consisting of round shapes are not sufficiently significant to distract the public's attention from the message which the ‘€’ and ‘\$’ currency symbols convey in relation to the goods and services concerned.

Cinkciarz.pl brought an action before the General Court for annulment of that decision.

By today's judgment, the **General Court annuls EUIPO's decision**.

The General Court first points out that any refusal of registration by EUIPO must, in principle, be reasoned for each of the goods or services concerned. Although EUIPO may confine itself to providing general reasoning for all of the goods or services concerned in the case where the same ground of refusal is given for a category or group of goods or services, such an option extends only to goods and services which have a sufficiently direct and specific relationship to each other, to the point where they form a sufficiently homogeneous category or group of goods or services.

Next, the General Court specifies that the distribution of the goods and services in question into one or more groups or categories must in particular be carried out on the basis of the characteristics which are common to them.

The General Court finds that EUIPO examined the descriptive character of the sign at issue without referring to each of the goods and services covered by that sign and that it adopted general reasoning in their regard. The General Court therefore examines whether the goods and services covered by the mark applied for all have a common characteristic. It observes in this regard that the mark applied for covers more than 80 goods and services, falling into three very different distinct classes, whereas EUIPO, however, confined itself to finding that all of the goods and services covered by the mark were related to foreign exchange transactions. The General Court holds that the characteristic upheld by EUIPO is not common to all of the goods and services at issue. According to the General Court, the general reasoning adopted by EUIPO is therefore not relevant for all of the goods and services concerned. It was for EUIPO to provide additional reasoning for the goods and services which are not characterised as being related to foreign exchange transactions, in order to explain why registration of the mark applied for had to be

refused. Since the contested decision does not contain any such additional reasoning, the General Court finds that there was a failure to state reasons.

Next, the General Court notes that, even if the goods and services covered by the mark applied for are related to foreign exchange transactions, the contested decision does not state clearly why EUIPO took the view that the mark would enable the relevant public immediately to perceive, without further thought, a description of all of the goods and services concerned.

Finally, as regards the distinctive character of the mark applied for, the General Court states that EUIPO's conclusion is vitiated by the same failure to state reasons.

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 that 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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