



Press and Information

General Court of the European Union  
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Judgment in Case T-554/14  
Lionel Andrés Messi Cuccittini v EUIPO

## **Lionel Messi may register his trade mark 'MESSI' for sports equipment and clothing**

*The football player's fame counteracts the visual and phonetic similarities between his trade mark and the trade mark 'MASSI' belonging to a Spanish company*

In August 2011, the footballer Lionel Andrés Messi Cuccittini requested the European Union Office for Intellectual Property (EUIPO) to register the following EU trademark, inter alia for sports and gymnastics clothing, footwear and equipment:



In November 2011, Mr Jaime Masferrer Coma filed a notice of opposition to the registration of Mr Messi's trade mark claiming a likelihood of confusion with the 'MASSI' EU word marks registered, inter alia, for clothing, shoes, bicycle helmets, protective clothing and gloves (the rights to those marks were transferred in May 2012 to the company JM-EV e hijos).<sup>1</sup> In 2013 EUIPO upheld the opposition. Mr Messi lodged an appeal before EUIPO against that decision. In April 2014 EUIPO dismissed the appeal. In essence, EUIPO concluded that there is a likelihood of confusion between the marks. It took the view that the marks at issue are similar because their dominant elements, consisting of the terms 'MASSI' and 'MESSI', are almost identical visually and phonetically and that a possible conceptual differentiation will be made, where appropriate, only by part of the relevant public.

Unsatisfied with EUIPO's decision, Mr Messi brought an appeal before the General Court to have that decision annulled.<sup>2</sup>

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

The General Court first of all states that the signs which make up the marks at issue have an average degree of similarity visually, since the dominant element of Mr Messi's mark is extremely similar to the word element present in the MASSI trade mark. Next, the General Court confirms EUIPO's conclusion that the signs at issue are very similar phonetically. In contrast, the Court considers that EUIPO erred in the conceptual comparison of the signs. The Court finds that it is wrong to consider that the reputation enjoyed by Mr Messi concerns only the part of the public which is interested in football and sport in general. Mr Messi is, in fact, a well-known public figure who can be seen on television and who is regularly discussed on television or on the radio.

<sup>1</sup> That same company is the applicant in another trade mark case before the General Court (Case [T-2/17](#)).

<sup>2</sup> The Brazilian football player Neymar is also a party in a trade mark case before the General Court (Case [T-795/17](#)).

Furthermore, EUIPO should have examined whether a significant part of the relevant public was not likely to make a conceptual association between the term 'Messi' and the name of the famous football player. Lastly, the Court emphasises that account must be taken of the fact that the goods covered by the marks at issue and for which a likelihood of confusion may exist, are, in particular, sports equipment and clothing, even if those are not limited to the field of football. However, it seems unlikely that an average consumer of those goods will not directly associate, in the vast majority of cases, the term 'Messi' with the name of the famous football player. The General Court adds that, although it is indeed possible that some consumers have never heard of or remember Mr Messi, that will not be the typical case of the average consumer who buys sports clothing or equipment.

The General Court concludes that, even if the signs at issue are similar overall, the conceptual differences between them are such as to counteract the visual and phonetic similarities identified. Indeed, the Court considers that a significant part of the relevant public will associate the term 'Messi' with the name of the famous football player and will, therefore, perceive the term 'Massi' as being conceptually different. The degree of similarity between the marks is not sufficiently high to accept that the relevant public may believe that the goods at issue come from the same undertaking or, as the case may be, from economically-linked undertakings. Therefore, EUIPO is wrong to conclude that the use of the trade mark 'MESSI' for sports and gymnastics clothing, equipment and protective equipment and instruments could create a likelihood of confusion with the trade mark 'MASSI' on the part of consumers.

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**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.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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

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