



Press and Information

General Court of the European Union

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Judgment in Case T-795/17  
Carlos Moreira v EUIPO

## **The General Court of the EU confirms that registration of the mark 'NEYMAR' by a third party is invalid**

In December 2012, Mr Carlos Moreira, residing in Guimarães (Portugal), filed an application with the European Union Intellectual Property Office (EUIPO) for registration of the word sign 'NEYMAR' as a EU trade mark, in respect of clothing, footwear and headgear. The mark was registered in April 2013.

In February 2016, Mr Neymar Da Silva Santos Júnior, filed an application with EUIPO for a declaration of invalidity against that mark in respect of all the goods covered by it. The application for a declaration of invalidity was upheld by EUIPO.

Mr Moreira then brought an action before the General Court against the decision of EUIPO.

By today's judgment, **the Court upholds the decision of EUIPO that Mr Moreira was acting in bad faith when he filed the application for registration of the mark 'NEYMAR'.**

Although Mr Moreira admitted that, when he filed the application for registration of the mark 'NEYMAR', he was aware of Mr Da Silva Santos Júnior's existence, he maintains that he did not know, however, that the Brazilian footballer was a rising star in football, whose talent was recognised internationally, and he claims that the latter was not yet known in Europe.

The Court notes that it is apparent from the decision of EUIPO that the evidence submitted in support of the application for a declaration of invalidity filed with EUIPO showed that Mr Da Silva Santos Júnior was already known in Europe at the relevant date, in particular for his performances for the Brazilian national football team, and that he had been highly publicised between 2009 and 2012, especially in France, Spain and the United Kingdom. Mr Da Silva Santos Júnior was thus already recognised as a very promising football player, having drawn the attention of top-flight clubs in Europe in view of future recruitment, several years before his actual transfer to FC Barcelona in 2013.

The Court also confirms that Mr Moreira possessed more than a little knowledge of the world of football, as proven by the fact that he filed an application for registration of the word mark 'IKER CASILLAS', a mark corresponding to the name of another famous football player, on the same day he sought registration of the mark 'NEYMAR'. In addition, the Court points out that Mr Moreira also admitted that he knew the world of football at that date. In the light of these considerations and given the fact that the mark, which consists of the single word element 'NEYMAR', corresponds precisely to the name under which Mr Da Silva Santos Júnior became known for his football performances, **it was inconceivable that Mr Moreira had not been informed of the footballer's existence at the time when he filed the application for registration of the mark 'NEYMAR'.**

Mr Moreira denies seeking registration of the mark 'NEYMAR' with the sole purpose of exploiting the renown of the Brazilian footballer. He claims, *inter alia*, that he chose the name 'NEYMAR' only because of the phonetics of the word and not as a reference to the footballer. According to Mr Moreira, the decision to choose the word sign 'NEYMAR' was thus a mere coincidence and did

not stem from a conscious desire to use the name of a known footballer. The Court rejects the argument that that choice was a mere coincidence since the footballer's renown was already well established at the relevant date in the world of football, including in Europe, and Mr Moreira possessed more than a little knowledge of that world. Therefore, he cannot pretend that he did not know who Mr Da Silva Santos Júnior was. The Court recalls, in that respect, that the mark consists of only the word element 'NEYMAR', which is identical to the name under which the Brazilian footballer acquired international renown in the world of football.

The Court also noted that Mr Moreira puts forward no convincing argument to disprove the finding of EUIPO that there was no explanation for his application for registration of the contested mark other than the desire to 'free-ride' on the footballer's renown.

Lastly, the Court rejects Mr Moreira's argument that EUIPO relied on mere speculations in finding, wrongly, that his intention had been to take undue advantage of the footballer's renown in order to obtain certain financial advantages. In order to reach that conclusion, EUIPO relied, *inter alia*, on objective factors from a portfolio of evidence consisting of press and internet articles and on the fact that Mr Moreira had filed on the same day an application for registration of the word mark 'IKER CASILLAS' and an application for registration of the mark 'NEYMAR'.

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**NOTE:** EU trade marks are valid for the entire territory of the EU and coexist with national trade marks. Applications for registration of a EU trade mark are addressed 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 and ten days of notification of the decision. The appeal will not proceed unless the Court first decides that it should be allowed to do so. Accordingly, it must be accompanied by a request that the appeal be allowed to proceed, setting out the issue(s) raised by the appeal that is/are significant with respect to the unity, consistency or development of EU law.

**NOTE:** An action for annulment seeks the annulment of acts of the institutions of the EU that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court 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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