



Press and Information

General Court of the European Union  
**PRESS RELEASE No 76/19**  
Luxembourg, 19 June 2019

Judgment in Case T-307/17  
adidas AG v EUIPO

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**The General Court of the EU confirms the invalidity of the adidas EU trade mark which consists of three parallel stripes applied in any direction**

*adidas does not prove that that mark has acquired, throughout the territory of the EU, distinctive character following the use which had been made of it*

In 2014, the European Union Intellectual Property Office (EUIPO) registered, in favour of adidas, the following EU trade mark for clothing, footwear and headgear.



In its application for registration, adidas had described the mark as consisting of three parallel equidistant stripes of identical width, applied on the product in any direction.

In 2016, following an application for declaration of invalidity filed by the Belgian undertaking Shoe Branding Europe BVBA, EUIPO annulled the registration of that mark on the ground that it was devoid of any distinctive character<sup>1</sup>, both inherent and acquired through use. According to EUIPO, the mark should not have been registered. In particular, adidas had failed to establish that the mark had acquired distinctive character through use throughout the EU.

In today's judgment, the General Court upholds the annulment decision, dismissing the action brought by adidas against the EUIPO decision.

The General Court notes, first of all, that the mark is not a pattern mark composed of a series of regularly repetitive elements, but an ordinary figurative mark. The General Court also finds that the forms of use which fail to respect the other essential characteristics of the mark, such as its colour scheme (black stripes against white background), cannot be taken into account. Therefore, EUIPO was correct to dismiss numerous pieces of evidence produced by adidas on the ground that they

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<sup>1</sup> The distinctive character of a trade mark means that that mark serves to identify the product in respect of which registration is applied for as originating from a particular undertaking and thus to distinguish that product from goods of other undertakings.

concern other signs, such as, in particular, signs for which the colour scheme had been reversed (white stripes against black background).

Finally, the General Court notes that EUIPO did not commit an error of assessment in finding that adidas had not proved that the mark at issue had been used throughout the territory of the European Union and that it had acquired, in the whole of that territory, distinctive character following the use which had been made of it. From the evidence produced by adidas, the only evidence which is, to some extent, relevant relates to only five Member States and cannot, in the present case, be extrapolated to the entire territory of the EU.

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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 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 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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*Pictures of the delivery of the judgment are available from "[Europe by Satellite](#)" ☎ (+32) 2 2964106*