



Press and Information

General Court of the European Union
PRESS RELEASE No 157/19
Luxembourg, 12 December 2019

Judgment in Case T-683/18
Santa Conte v EUIPO

A sign referring to marijuana may not, as the law currently stands, be registered as an EU trade mark

Such a sign is contrary to public policy

In 2016, Ms Santa Conte filed an application with the European Union Intellectual Property Office (EUIPO) for registration of the following figurative sign as an EU trade mark, in respect of food and drink items and catering services:



EUIPO rejected her application, finding that the sign was contrary to public policy. Ms Conte therefore brought an action before the General Court seeking annulment of EUIPO's decision.¹

In today's judgment, the Court dismisses the action, with the result that **EUIPO's decision is upheld.**

The Court finds that EUIPO was fully entitled to consider that the stylised depiction of a cannabis leaf is the media symbol for marijuana and that the word 'amsterdam' refers to the fact that the city of Amsterdam has points of sale for that narcotic derived from cannabis, due to the sale of cannabis being tolerated, under certain conditions, in the Netherlands. Furthermore, the inclusion of the word 'store', which normally means 'shop', means that the public could expect the goods and services sold under that sign to correspond to those which would be available in a shop selling narcotic substances. Thus, the Court, whilst acknowledging that hemp is not regarded as a narcotic substance below a certain tetrahydrocannabinol (THC) threshold, concludes, in this case, that **it is due to the combination of those different elements that the sign at issue draws the attention of consumers**, who do not necessarily have accurate scientific or technical knowledge regarding **cannabis as a narcotic substance which is illegal in many EU countries.**

¹ One of the grounds for refusal to register a trade mark is 'trade marks which are contrary to public policy or to accepted principles of morality'. As regards whether a trade mark is contrary to public policy, see the judgment of the General Court of 15 March 2018 in Case [T-1/17](#), La Mafia SE SIENTA A LA MESA Press Release No [33/18](#). With regard to a trade mark (not) being contrary to 'accepted principles of morality', see the Opinion of the Advocate General of 2 July 2019 in Case [C-240/18 P](#), Constantin Film Produktion GmbH Press Release No [86/19](#).

As regards the concept of 'public policy', the Court states that, even if, currently, the issue of the legalisation of cannabis for therapeutic and even recreational purposes is under discussion in many Member States, as the law currently stands, the consumption and use of cannabis above the stated threshold remain illegal in most of those States. Thus, in those States, tackling the spread of the narcotic substance derived from cannabis **meets a public health objective** aimed at combating the harmful effects of that substance. The rules applicable to the consumption and use of that substance are therefore a matter of 'public policy'. Moreover, the Treaty on the Functioning of the European Union (TFEU) provides that the EU is to complement the Member States' action in reducing drugs-related health damage, including information and prevention, and that illicit drug trafficking is one of the areas of particularly serious crime with a cross-border dimension, in which the EU legislature may intervene. In view of that fundamental interest, the Court finds that **the fact that the sign at issue will be perceived by the relevant public as an indication that the food and drink items covered by the trade mark application, and the related services, contain narcotic substances which are illegal in many Member States is sufficient to conclude that it is contrary to public policy.**

The Court emphasises that, since one of the functions of a trade mark consists of identifying the commercial origin of the goods or services, thus enabling the consumer to make his or her choices, the sign at issue, in so far as it will be perceived as described above, **encourages, implicitly but necessarily, the purchase of such goods and services or, at the very least, trivialises their consumption.**

NOTE: EU trade marks are valid throughout the European Union and co-exist with national trade marks. Applications for registration of EU trade marks 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 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 European Union 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 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 judgment is published on the CURIA website on the day of delivery.

Press contact: Jacques René Zammit ☎ (+352) 4303 3355.

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