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Judgment of the General Court in Case T-562/22 | Noah Clothing v EUIPO – Noah (NOAH)

The General Court confirms that the figurative sign NOAH may remain registered as an EU trade mark for ‘polo shirts’ and ‘sweaters’

In 2008, Mr Yannick Noah, a French former tennis player, registered with the European Union Intellectual Property Office (EUIPO) the following figurative sign as an EU trade mark:



That registration concerned, inter alia, goods made of leather and imitations of leather, clothing, including polo shirts and sweaters, and games and playthings.

In 2019, Noah Clothing LLC, a company established in New York (United States) that markets clothing, filed an application for revocation of that mark with EUIPO, on the ground that it had not been put to genuine use in the European Union within a continuous period of five years for all of the goods at issue.

In July 2022, EUIPO revoked the mark at issue in respect of all the goods at issue, with the exception of ‘polo shirts’ and ‘sweaters’.

Noah Clothing LLC requests that the General Court of the European Union annul the EUIPO decision in so far as it did not also revoke the mark at issue for ‘polo shirts’ and ‘sweaters’.

The General Court dismisses that action.

It states that the fact that the mark at issue was used by its proprietor in a slightly different form from its registered form, in so far as it included the first letter of Mr Yannick Noah’s given name, namely the upper-case letter ‘Y’, followed by a full stop, did not alter its initial distinctive character. Thus, the form of that mark, as used in trade, is broadly equivalent to its registered form.

It also states that the mark at issue was used with regard to the marketing of ‘sweater vests’, that is to say, goods not expressly covered by its registration, which does not call into question the relevance of that use for establishing genuine use. Those clothes are intended, like sweaters, to cover the upper part of the body, such that they may also be classified as ‘sweaters’, covered by that registration.

Lastly, the General Court confirms that the proprietor of the mark at issue has indeed put it to genuine use for ‘polo shirts’ and ‘sweaters’, taking into account, in particular, the relatively constant marketing during the relevant period and the marketing strategy consisting of a limited edition of clothing.

NOTE: EU trade marks and designs are valid in throughout the territory of the European Union. EU marks coexist with national marks. EU designs coexist with national designs. Applications for registration of EU trade marks and designs are addressed to the EUIPO. Actions against its decisions may be brought before the General Court.

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.

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 2 months and 10 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.

Unofficial document for media use, not binding on the General Court.

The [full text and, as the case may be, the abstract](#) of the judgment is published on the CURIA website on the day of delivery.

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

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