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Judgment of the General Court in Case T-24/25 | Les Éditions Albert René v EUIPO - Works 11 Michał Lubiński (Obelix)

### The General Court nullifies EUIPO's refusal to invalidate the word mark Obelix for weapons, ammunition and explosives

In 2022, the European Union Intellectual Property Office (EUIPO) registered the word mark Obelix for goods related to firearms, ammunition and explosives, for the benefit of a Polish entrepreneur. <sup>1</sup>

Les Éditions Albert René, the publisher of the comic book series *Astérix & Obélix*, applied to have it invalidated on the basis of its earlier European Union trade mark OBELIX and of the damage done to that mark's reputation. EUIPO however rejected that application, taking the view, *inter alia*, that proof of the reputation of the earlier mark had not been sufficiently established.

In its judgment, **the General Court of the European Union**, the matter having been brought before it by Les Éditions Albert René, annuls EUIPO's decision.

The General Court recalls that the reputation of a mark must be assessed by taking into consideration all the relevant factors of the case, <sup>2</sup> even if each of those factors, taken individually, is not sufficient to demonstrate it.

**The assessment of the reputation of the OBELIX mark** carried out by EUIPO, **however, was based on an incomplete and erroneous analysis.** In particular, EUIPO did not correctly take into account examples of various products on which the term 'Obelix' or 'Obélix' appeared accompanied by the ® symbol, indicating that it is a registered trade mark. It was also unjustified to disregard evidence on which that sign had been used in combination with the Asterix sign. Such an association does not prevent it from being established that the term 'Obelix' is perceived separately, as a distinct mark, capable of having acquired a reputation.

The General Court also considers that **EUIPO did not sufficiently assess the link between the two marks at issue**, such as to lead the relevant public to associate them and capable of damaging the reputation of the earlier mark.

Such an assessment cannot be limited – as EUIPO wrongly did – to the identification of overly wide differences between the goods and services in question or to the absence of any overlap between the relevant publics. The existence of such a link must be **examined globally, taking into account all relevant factors, including the degree of distinctiveness, whether inherent or acquired through use, of the earlier mark.**

**NOTE:** EU trade marks and Community designs are valid for the entire territory of the European Union. EU trade marks coexist with national trade marks. Community designs coexist with national designs. Applications for registration of an EU trade mark and a Community design are addressed to 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

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.

**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 be subject to a prior admission procedure. 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, an abstract](#) 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.

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<sup>1</sup> Class 13 of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended.

<sup>2</sup> Such as the market share held by the trade mark, the intensity, geographical extent and duration of its use, and the size of the investment made by the undertaking in promoting it.