

Seeking new horizons

EU Case-Law: Recent ECJ Case Law: an overview

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Abstract

The presentation consists of an overview of the most impactful judgments in the area of trademark law rendered by the European Court of Justice (CJEU) in recent months, with emphasis on points of law and principle that are of particular relevance for the praxis of the EUIPO. To complete the canvas of recent developments, reference will also be made to a selection of important issues currently pending before the CJEU in cases that are expected to be decided in the coming months.

The focus will be both on Appeals brought against judgments rendered by the General Court and on requests for Preliminary Rulings dealing with the interpretation of pivotal provisions of the EUTMR and the Trade Mark Directive.

The selected cases discuss a number of key legal concepts and principles in a wide range of areas, like:

- the relevance of the indication of the **'type' of the mark** in formalities examination and in the assessment of the distinctive character of colours *per se* (C-578/17, HARTWALL, 27.03.2019, C-433/17, BLENDED SHADES OF GREEN, 25.10.2018; C-124/18P, BLUE AND SILVER);
- the assessment of the **distinctive character** of marks consisting of geographical terms or patterns (C-488/16, NEUSCHWANSTEIN, 06.09.2018; C-26/17, BIRKENSTOCK, 13.09.2018);
- the interpretation of certain key concepts derived from the Regulations for **Geographical Indications** for spirits and foodstuffs (C-44/17, SCOTCH WHISKY, 07.06.2018; C-614/17, QUESO MANCHEGO, 02.05.2019);
- the ex tempore application of the **new legislative provisions** (C-21/18, TEXTILIS) and the impact of **BREXIT** on pending proceedings (C-340/17, ALCOHOL).
- the scope of **Article 8(3) EUTMR** (C-809/18P, MAGIC MINERALS/MINERAL MAGIC);
- the assessment of **bad faith** (C-528/17P, OUTSOURCE2INDIA; C-776/18P, KOTON/STYLO);

- the impact of lack of **clarity and precision** in the specification of goods (C-361/18, SKY);
- the interpretation of the '**Alladdin**' doctrine (C-720-721/18, FERRARI 'TESTAROSSA');

The objective of the presentation is to stimulate an exchange of views on the interpretation provided by the CJEU in the cases under discussion and to assess the possible impact of the principles derived from the Court's case law on the practice both of the EUIPO and of national trade mark authorities across the EU.