



PRESS RELEASE No 117/22

Luxembourg, 6 July 2022

Judgment of the General Court in Case T-478/21 | Les Éditions P. Amaury v EUIPO - Golden Balls (BALLON D'OR)

The General Court annuls EUIPO's decision revoking the EU trade mark BALLON D'OR in respect of entertainment services

However, it upholds the revocation of that mark for services consisting in the broadcasting or production of television programmes, the production of shows or films and the publication of books, magazines or newspapers

The French company Les Éditions P. Amaury, which holds the rights relating to the Ballon d'or (an award given to the best football player of the year), obtained registration of an EU trade mark at the European Union Intellectual Property Office (EUIPO) in respect of the word sign BALLON D'OR. That registration concerned, inter alia, printed matter, books and magazines, as well as services consisting in the organisation of sports competitions and awarding of trophies, entertainment, the broadcasting or production of television programmes, the production of shows or films and the publication of books, magazines or newspapers.

In 2017, the United Kingdom company Golden Balls filed an application with EUIPO for revocation of the BALLON D'OR mark on the basis of non-use, pursuant to the EU trade mark regulation.

In 2021, EUIPO revoked that mark for all the goods and services in respect of which it had been registered, with the exception of printed matter, books and magazines, and services relating to the organisation of sports competitions and awarding of trophies.

Les Éditions P. Amaury therefore brought an action before the General Court of the European Union against EUIPO's decision in so far as it revoked the mark at issue for services consisting in, inter alia, the broadcasting or production of television programmes, entertainment, the production of shows or films and the publication of books, magazines or newspapers.

In today's judgment, the General Court recalls that the rights of the proprietor of an EU trade mark are to be declared to be revoked, on application to EUIPO, if, within a continuous period of five years, the trade mark has not been put to genuine use in the European Union in connection with the goods or services in respect of which it is registered.

In that regard, the General Court finds, first, that the diffusion of television programmes forms part of telecommunications services, **all** of which must allow at least one person to communicate with another by a sensory means. Les Éditions P. Amaury **had not demonstrated that it maintained a telecommunications network that could be used by others.**

Secondly, the General Court finds that that company did not provide to third parties services consisting in the production of television programmes, the production of shows and films, or the publication of books, magazines

and newspapers under the contested mark.

Accordingly, that company **did not establish genuine use of the mark at issue in connection with those services, with the result that the General Court upholds EUIPO's decision to revoke the mark in respect of those services.**

On the other hand, the General Court points out that **the organisation, under the contested mark, of the Ballon d'or award ceremony must be classified as an entertainment service** and that, in finding that Les Éditions P. Amaury had not supplied such a service in the context of the use of that mark, **EUIPO had erred in law.** Consequently, **the General Court annuls EUIPO's decision in so far as it revoked the mark at issue in respect of entertainment services.**

NOTE: EU trade marks and Community designs are valid throughout the territory of the European Union. EU trade marks co-exist with national trade marks. Community designs co-exist with national designs. Applications for registration of EU trade marks and Community designs 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 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.

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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