

Barry's Bootcamp Holdings LLC

v

European Union Intellectual Property Office

Judgment of the General Court (Second Chamber) of 24 September 2025

(EU trade mark – Revocation proceedings – International registration designating the European Union – Figurative mark representing eight inverted black chevrons – Genuine use of the mark – Article 18(1)(a) and Article 58(1)(a) of Regulation (EU) 2017/1001 – Nature of use of the mark – Form differing in elements that do not alter the distinctive character of the mark – Cross-claim – Subject matter of the action – Interest in bringing proceedings – Admissibility)

1. EU trade mark – Surrender, revocation and invalidity – Grounds for revocation – Lack of genuine use of the mark – Figurative mark representing eight inverted black chevrons

(European Parliament and Council Regulation 2017/1001, Arts 18(1)(a) and 58(1)(a))

(see paragraphs 40, 54, 63, 92, 98, 123, 131, 138)

2. EU trade mark – Appeals procedure – Action before the EU judicature – Cross-claim – Action brought against a decision on two joined cases – Action relating to the part of the decision not concerned by the main action – Admissibility

(Rules of Procedure of the General Court, Art. 184(1))

(see paragraphs 104-110)

3. Action for annulment – Natural or legal persons – Interest in bringing proceedings – Need for a vested and present interest – Assessment at the time when the action was brought – Action capable of securing a benefit for the applicant

(Art. 263, fourth para., TFEU)

(see paragraphs 111-114)

Résumé

Hearing an action for annulment, which it dismisses, the General Court rules, for the first time, on the admissibility of a cross-claim lodged against a decision of the Board of Appeal of the European Union Intellectual Property Office (EUIPO) following the joinder, by the latter, of two actions brought against the same decision of the Cancellation Division and involving the same parties.

Hummel Holding A/S, the intervener, is the proprietor of the international registration designating the European Union of a figurative mark representing eight inverted black chevrons in respect of goods and services in several categories. ([1](#)) Barry's Bootcamp Holdings LLC, the applicant, submitted an application for revocation ([2](#)) with EUIPO for that international registration in respect of all the goods and services concerned. The Cancellation Division of EUIPO upheld that application in part, taking the view that the extent of use of the international registration had not been proved in respect of all the goods and services covered, with the exception of sports clothing, leisure clothing and fashion clothing in Class 25.

The intervener brought an appeal against the decision of the Cancellation Division on the ground that the latter had revoked its rights in the international registration in respect of bags for sport and footwear, sports footwear and leisure footwear ([3](#)) (Case R 1415/2022-2). For its part, the applicant brought another appeal against that decision, in so far as the application for revocation of the intervener's rights

in the contested international registration had been rejected in respect of sports clothing, leisure clothing and fashion clothing ([4](#)) (Case R 1421/2022-2). The Board of Appeal of EUIPO joined those two appeals, on the ground that they were directed against the same decision, and dismissed them in the contested decision.

The applicant therefore brought an action before the Court for annulment of that decision (‘the main action’). The intervener brought a cross-claim against that decision. By separate document, the applicant raised a plea of inadmissibility against that cross-claim.

Findings of the Court

In the first place, the Court points out that, under Article 184(1) of its Rules of Procedure, the cross-claim is to seek an order annulling or altering the decision of the Board of Appeal on a point not raised in the application.

First, the Court states that, in the present case, the applicant and the intervener had first brought two separate appeals against the decision of the Cancellation Division, with the result that they were automatically parties to the two parallel proceedings before the Board of Appeal. ([5](#)) The Board of Appeal examined those two appeals in the course of the same proceedings, ([6](#)) at the end of which it adopted the contested decision. Therefore, in that decision, the Board of Appeal ruled on two appeals brought against the same decision of the Cancellation Division and involving the same parties.

Secondly, the Court notes that, by the main action, the applicant asks it to annul the contested decision in so far as the Board of Appeal dismissed the appeal in Case R 1421/2022-2, whereas the cross-claim seeks the annulment of the contested decision on the ground that the Board of Appeal decided to dismiss the appeal in Case R 1415/2022-2. It follows that the cross-claim seeks the annulment of the contested decision on a point not raised in the application within the meaning of Article 184(1) of the Rules of Procedure of the General Court.

In the light of those considerations, the Court considers that the applicant is not justified in claiming that the cross-claim relates to a decision separate from that contested in the main action.

In the second place, as regards the intervener’s interest in bringing proceedings, the Court points out that an action for annulment brought by a natural or legal person is admissible only in so far as that person has an interest in having the contested act annulled. Such an interest therefore requires that the annulment of that act must be capable, in itself, of having legal consequences and that the action may therefore, through its outcome, procure an advantage to the party which brought it.

In the present case, the cross-claim seeks the annulment of the contested decision in so far as it dismissed the intervener’s appeal in Case R 1415/2022-2 and, therefore, upheld the decision of the Cancellation Division that had revoked the rights of the proprietor of the contested international registration, in particular for bags for sports and for footwear. Thus, the Court notes that, if it were to uphold the intervener’s claims and annul the contested decision, the Board of Appeal would therefore be required to rule again on the intervener’s action brought in Case R 1415/2022-2 and could, in that context, adopt a decision different from that annulled by the Court. Consequently, the cross-claim is liable, if successful, to procure an advantage for the intervener.

In the light of the foregoing, the Court concludes that the fact that the contested decision found in favour of the intervener as regards Case R 1421/2022-2 cannot deprive it of an interest in bringing proceedings against the contested decision in so far as that decision dismissed the action in Case R 1415/2022-2.

([1](#)) The goods and services in question were in Classes 3, 18, 25, 28 and 35 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.

([2](#)) On the basis of Article 58(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark ([OJ 2017 L 154, p. 1](#)).

([3](#)) ‘Bags for sport’ are included in Class 18 and ‘footwear; sports footwear; leisure footwear’ are included in Class 25.

([4](#)) Those goods are in Class 25.

([5](#)) In accordance with Article 67 of Regulation 2017/1001.

([6](#)) Pursuant to Article 35(5) of Commission Delegated Regulation (EU) 2018/625 of 5 March 2018 supplementing Regulation 2017/1001, and repealing Delegated Regulation (EU) 2017/1430 ([OJ 2018 L 104, p. 1](#)).