

# Decisions of the trimester of the GCEU and the CJEU

## 14 June 2016

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## **Topics:**

- 1. Procedure before EUIPO**
- 2. Absolute grounds**
- 3. Relative grounds**
- 4. Procedure before GCEU**

# 1. Procedure before EUIPO

**T-33/15 - Grupo Bimbo / HABM (BIMBO); 18/03/2016**

EUTM application
<b>BIMBO</b>
30

Settled cas-law since [T-289/02](#), TELEPHARMACY SOLUTIONS, para. 60.

## T-33/15 - Grupo Bimbo / HABM (BIMBO); 18/03/2016

Compare newly introduced Art. 40 (3) EUTMR:

The submission referred to in paragraph 1 [third party observation] shall be without prejudice to the right of the Office to re-open the examination of absolute grounds **on its own initiative at any time before registration**, where appropriate.

## 2. Absolute grounds

[T-361/15](#) - Choice v EUIPO (Choice chocolate & ice cream); 12/04/2016

EUTM application



*Choice*  
chocolate & ice cream

[T-32/15](#) - GRE v EUIPO (Mark1); 12/05/2016

EUTM application



Mark 1

9, 34



[T-454/14](#) - Warimex v EUIPO (STONE); 31/05/2016

EUTM application



8, 21

## Assessment of the figurative threshold

Compare:

Common Communication on the Common Practice of Distinctiveness – Figurative Marks containing descriptive/non-distinctive words (“CP3”) available at <https://www.tmdn.org/network/documents/10181/278891cf-6e4a-41ad-b8d8-1e0795c47cb1>

EUIPO Guidelines, Part B, Section 4, Chapter 4, Point 4.

**T-89/15 - Niagara Bottling v EUIPO (NIAGARA); 27/04/2016**



**EUTM application**

**NIAGARA**

32

## 3. Relative grounds

**T-645/13 - Nezi v OHMI - Etam (E); 15/03/2016**

Earlier TM	EUTM application
 <p data-bbox="550 773 639 820">(EU)</p>	
18, 25, (35, 14, 16, 40)	3, 18, 25

**T-292/12 RENV - Mega Brands v EUIPO - Diset (MAGNEXT); 01/06/2016**

Earlier TM	EUTM application
<b>MAGNET 4 (ES)</b>	<b>MAGNEXT</b>
28	28

**T-777/14 - Fon Wireless v EUIPO - Henniger (Neofon); 28/04/2016**

Earlier TM	EUTM application
<b>FON (UK)</b>	<b>NEOFON</b>
9, 38	9, 38

**T-20/15 - Henkell & Co. Sektkellerei v EUIPO - Ciacci Piccolomini d'Aragona di Bianchini (PICCOLOMINI); 14/04/2016**

Earlier TM	EUTM application
<b>PICCOLO (EU)</b>	<b>PICCOLOMINI</b>
33	33





**T-613/14 - Industrias Tomás Morcillo v EUIPO - Aucar Trailer (Polycart A Whole Cart Full of Benefits); 07/04/2016**

Earlier TM	EUTM application
 <p>(EU)</p>	
12	12


**T-576/13 - Verus v OHMI - Joie International (MIRUS); 28/10/2015**

[T-645/13](#) - Nezi v OHMI - Etam (E); 15/03/2016

Earlier TM	EUTM application
 <p data-bbox="550 773 639 816">(EU)</p>	
18, 25, (35, 14, 16, 40)	3, 18, 25

## 4. Procedure before the GCEU

**T-840/14 - International Gaming Projects v OHMI - Sky (Sky BONUS); 11/03/2016**

Earlier TM	EUTM application
<p><b>SKY (UK)</b></p>	 The logo for 'Sky BONUS' features the word 'SKY' in a large, stylized, yellow-to-orange gradient font with a white outline and a drop shadow. Three yellow stars of varying sizes are positioned above the 'Y'. Below 'SKY', the word 'BONUS' is written in a smaller, bold, yellow-to-orange gradient font with a white outline and a drop shadow.
<p>9, 28 etc</p>	<p>9, 28</p>

## T-840/14 - International Gaming Projects v OHMI - Sky (Sky BONUS); 11/03/2016

Action dismissed by order as inadmissible:

“annul the contested decision in part and allow registration of the mark applied for as regards ‘computer programs; electronic components’ in Class 9 and ‘automatic slot machines; amusement and gaming machines; amusement and gaming electric and/or electronic machines, apparatus and installations; Video-game machines and apparatus; parts and fittings for all these goods, not included in other classes’ in Class 28, in so far as those goods relate exclusively to Video Bingo games for recreational machines for casinos and amusement arcades”



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Thank you