

The impact of the linguistic diversity of the European Union

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INTRODUCTION

Languages

official languages of the EU

- 24 languages
 - Including Maltese and Gallic
 - Request for Turkish pending

official languages within the EU

- At least 30 languages have official character
 - LX: Luxemburgish
 - ES: Catalan, Galician, Basque, Valencian, ...
- uncountable officially recognised minority languages
 - Sign language
 - DE: Plattdeutsch
 - FI: Sami, Romani

ABSOLUTE GROUNDS

The 'reference' language

- Any official language of EU
- Any language spoken by significant section of the relevant public in at least part of EU
 - Official languages of MS which are not official languages of the EU
 - Turkish, 13/06/2012, T-534/10, Hellim, EU:T:2012:292
 - Catalan, 13/09/2012, T-72/11, Espetec, EU:T:2012:424
 - Languages spoken by significant part
 - Russian, 30/09/2010, R0935/2009-1, OTDYKH LEISURE

RELATIVE GROUNDS

Likelihood of confusion

- Global Assessment
 - Relevant consumer
 - Comparison of goods and services
 - Comparison of signs
 - Distinctive character of the earlier trade mark
 - Inherent distinctive character
 - Distinctive character through use
 - Market reality

The 'reference' language

- Any official language spoken in the MS concerned as well as any language spoken in the MS concerned by a significant part of the population
 - Problem 1
 - How to assess language knowledge of population
 - Problem 2
 - A term is weak or non-distinctive in one MS but not understood in another MS
 - Likelihood of confusion due to an element which had no positive impact on the assessment of the trade mark

Inherent distinctive character

- Unitary character of the Union trade mark
 - Must be assessed at the lowest level within the European Union
 - A term which is descriptive and non-distinctive in one MS cannot be strong in another
 - Registration due to other elements



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