

IDEA and IKEA are not similar, says CFI

In *Inter-Ikea Systems BV v Office for Harmonization in the Internal Market (OHIM)*, the Court of First Instance (CFI) has upheld a decision by the Board of Appeal of OHIM which set aside a decision by the Cancellation Division declaring that the figurative mark IDEA was invalid.

Walter Waibel obtained the registration of the figurative mark IDEA as a Community trademark for furniture, among other things. Inter-Ikea Systems BV - the owner of the earlier word and figurative marks IKEA for furniture, among other things - applied for the cancellation of the mark IDEA on the grounds that there was a likelihood of confusion between the marks. The Cancellation Division of OHIM declared that the trademark IDEA was invalid. The First Board of Appeal upheld Waibel's appeal and set aside the decision of the Cancellation Division. Inter-Ikea appealed to the CFI.

Inter-Ikea argued that the goods at issue - furniture - may be purchased quickly, with no comparison with other items of furniture, and that not all furniture is expensive. The CFI disagreed, finding that the process of comparison and reflection requires a high level of attention on the part of the public. The CFI thus upheld the Board of Appeal's assertion that even when buying an inexpensive item of furniture, the average consumer usually makes his or her choice on the basis of a number of functional and aesthetic considerations.

Further, Inter-Ikea argued that the verbal element 'idea' dominates the overall impression of the contested mark and that the marks IKEA and IDEA are highly similar from a visual point of view. However, the CFI found that the marks were visually dissimilar. The CFI found that the verbal element of the figurative mark IDEA cannot be regarded as the dominant element, as the word 'idea' is an international expression of Greek origin (with identical or similar equivalents in almost all languages of the European Union) and is part of the basic vocabulary of the English language. Furthermore, the CFI considered that the figurative element of the mark IDEA was individual and original. The CFI also found that the contested mark and the earlier figurative marks were visually dissimilar, as the different figurative components of the marks accentuated even further the existing visual differences between the marks.

The CFI further concluded that there was only a low degree of aural similarity between the marks, as the consonants 'D' and 'K' have totally different sounds. The CFI also held that the marks were conceptually dissimilar: the word 'ikea' is a neologism, while the word 'idea' is a word which is generally recognized by the European public.

Therefore, the CFI stated that, in the context of a global assessment, there was no likelihood of confusion between the marks. Although it cannot be excluded that aural similarity alone may create a likelihood of confusion, aural similarities may be counteracted by conceptual differences where at least one of the marks has a clear and specific meaning which is understood immediately by the relevant public. In the case at hand, as the verbal element 'idea' of the contested trademark is recognized immediately, this outweighs any aural similarity. This finding was supported by the fact that furniture is rarely ordered orally.

This finding was not affected by Inter-Ikea's argument that the earlier marks have a reputation in Sweden. The CFI thus dismissed the action.