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Press and Information

PRESS RELEASE No 94/05

27 October 2005

Judgment of the Court of First Instance in Case T-336/03

Les Éditions Albert René v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

THE COURT OF FIRST INSTANCE DISMISSES THE ACTION BROUGHT AGAINST OHIM'S DECISION TO REGISTER THE TRADE MARK "MOBILIX"

There is no likelihood of confusion on the part of the public between the sign MOBILIX and the sign OBELIX used in the 'Asterix' comic strip

In 1997, Orange A/S applied to the Office for Harmonisation in the Internal Market (OHIM) to register the word mark MOBILIX as a Community trade mark in respect of telephonic goods.

OHIM refused the Community trade mark application for 'signalling and teaching apparatus and instruments' and services called 'business management and organisation consulting and assistance' and 'consulting and assistance in connection with attending to business duties'. However, OHIM granted the application for the remaining goods and services.

Les Éditions Albert René, which publishes the 'Asterix' comic strip series, challenged the decision of OHIM before the Court of First Instance of the European Communities. They claimed that the two signs MOBILIX and OBELIX were very similar, particularly having regard to the 'ix' suffix, which is a characteristic feature of the series of trade marks arising from the 'Asterix' family.

The Court finds from a visual comparison of the signs in question that there are a number of substantial differences between them and that they are, at most, visually only slightly similar. From an aural comparison, however, it finds that the second and third syllables are pronounced in a similar manner, so that the signs do have a certain aural similarity. Finally, from a conceptual comparison, the Court notes that the words 'mobilix' and 'obelix' have no meaning in any of the official languages of the European Union. However, whilst **the term 'mobilix' may readily be perceived as referring to something mobile or to mobility, the term 'obelix', even if the name has been registered as a word mark, will readily be identified by the average member of the public with the corpulent character from the comic strip series, widely known throughout the European Union.** This specific representation of a

popular character makes it extremely unlikely that there could be any conceptual confusion in the public mind.

The Court concludes that the conceptual differences between the signs in question are such as to counteract the aural similarities as well as any visual similarity in the present case. **There is therefore no likelihood of confusion between the two signs.** Lastly, the Court adds that Éditions Albert René cannot enjoy an exclusive right to the use of the 'ix' suffix.

Consequently, **the Court dismisses the action brought by Éditions Albert René.**

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: FR DE EN IT CS PL SK

The full text of the judgment may be found on the Court's internet site

<http://curia.eu.int/jurisp/cgi-bin/form.pl?lang=en>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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