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REPUTATION IN A VIRTUAL WORLD

BOIP explainer
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Author:
Tomas Westenbroek (Legal Officer)

In December 2024 the General Court ruled in the Glashütte* case that the real-world reputation of watches from Glashütte extends to virtual goods.

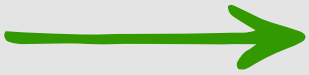
1.What is Glashütte? Glashütte means ‘glassworks’, namely a factory which produces glass. But it is also the name of a village close to Dresden in Germany which produces high-quality watches.

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2.There are nine brands originating from Glashütte: Bruno Söhnle Glashütte, Moritz Grossmann, Mühle Glashütte, NOMOS Glashütte, Tutima and Wempe Glashütte, A. Lange & Söhne,
Glashütte Original,
Union Glashütte and NOMOS Glashütte.



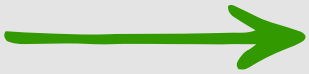
3.The Glashütte origin for watchmaking is already protected by German national law and will undoubtedly become a future non-agri GI according to the EU quality schemes*.
Glashütte Original has got a wide variety of EU trademark registrations. Not only for class 14 but also for goods and services in classes 3, 16, 18, 25, 28, 30, 32, 33, 34, 35 and 37.



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4. Application 018727034* was filed at EUIPO on 1 July 2022 for virtual goods in Class 9 (not limited only to watches), for retail services of virtual goods in class 35, and for entertainment services relating to virtual goods in Class 41.

EUIPO partially refused the application*, namely for all goods and services relating to watches.

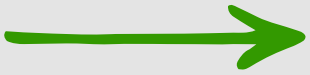


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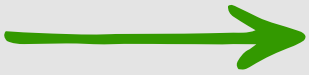
5. The refusal was based on Article 7 (1)(b) in conjunction with 7(2) EUTMR.

The trademark application was found to be non-distinctive, because the public would only see an informative indication that the goods originate from Glashütte, because of the fact that Glashütte has a reputation for watchmaking.

The applicant contested the refusal by stating that Glashütte is not known for virtual goods.



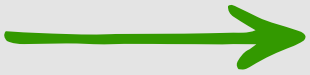
6. The Fifth Board of Appeal* upholds the decision and finds that the virtual goods depict exactly the same goods for which the name of the city of Glashütte is reputed and therefore the consumer would not consider the trademark applied for as an indication of commercial origin for virtual goods.



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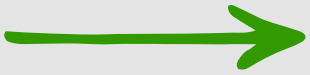
7. The General Court confirms the decision of the Board of Appeal. In short, Glashütte Original is not successful in downplaying its reputation for virtual goods by pointing out the differences between virtual and real-life goods.

The Court finds that the virtual goods are intended to represent the real-life goods or intended to emulate their functions.



8. The argument that the public for virtual goods differs from that for real-life goods is dismissed by lack of substantiation by the applicant.

Oddly enough, the applicant would have had to prove the reputation (i.e. acquired distinctiveness) of Glashütte for virtual watches in case of a refusal based on Article 7(1)(c)...?!



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