

Court recognizes similarity in another annulment case

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Pure Fishing, Inc., a US company, the owner of world-wide known fishing tackle brands, represented by *Andra Musatescu Law & Industrial Property Offices*, has just obtained a positive decision in a second annulment action brought against a local company SC CHEN YANG 2000 SRL.

SPIDER vs. SPIDER YUYU

The facts of the case:

The Romanian company has registered with the Romanian Trademark Office a 'SPIDER YUYU'



SPIDER YUYU

for all the products in Class 28, including 'sport and fishing articles, fishing rods, fishing reels, fishing line, hooks and artificial baits .

Pure Fishing is the owner of the following trademarks:

- SPIDER 833738 word mark, an international trademark with Romania as a designating country, being registered for "fishing rods; fishing reels; fishing line; artificial baits for fishing; terminal fishing tackle; and fishing accessories, namely, fishing floats, bobbers, fishing hooks, hand-held fishing dip nets, hand-held fishing landing nets, hand-held bait capture nets, in ground and mounted fishing rod holders, fishing hook removers, fish stringers, fish strike indicators, and fishing tackle boxes" in Class 28;
- SPIDER 005142070 Community word trademark, being registered for "fishing rods; reels for fishing; gut for fishing; artificial baits for fishing; fishing tackle and fishing equipment; fishing accessories, namely floats, bobbers, fish hooks, weights for fishing in the form of balls and lead; portable fishing nets, portable landing nets, portable bait traps (nets), rod rests, fish hook removers, fish stringers, bite indicators, scales (weighing devices) for fish, fishing buoys and fishing cases" in Class 28.

Pure Fishing considered that the registered SPIDER YUYU is similar as to create confusion among the consumers with its trademarks, its prior trademark rights are infringed by such registration and, therefore, decided to file an annulment action against the registration of the SPIDER YUYU trademark.

Arguments:

Pure Fishing's arguments in court were extensive, *including but not limited to*, similarity of the trademarks compared, the higher level of distinctiveness of the IR and CTM trademarks acquired

through use (evidence in this respect being provided to the court), the beginning of the trademark being of a high importance, adding 'yuyu' not being of the nature to differentiate the trademarks, the identity of the products which the analysed trademarks were registered, risk of confusion and association.

Findings of the court:

In judgment No. 1876, which was drafted and summoned to Pure Fishing, Inc. on March 23 2013, the High Court of Bucharest decided that (1) there is a highly visual similarity as SPIDER YUYU includes totally the verbal trademarks SPIDER, the YUYU sign and the device represented by two concentric black circles sign not being dominant; (2) the products are identical; (3) the risk of confusion also exists in this case.

Comments:

We consider the decision of the court as of high importance, not only for Pure Fishing as there is no risk that now their SPIDER trademarks to be diluted, but also as a precedent to be followed by the courts in similar cases.

The decision of the High Court of Bucharest is not yet final.

For more information, please contact:

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Within over 15 years, Andra Musatescu Law & Industrial Property Offices became one of the top firms in Romania, which is formed of young professionals educated in Romania and the U.K., with certificates in U.S. legislation, giving the firm an international dimension, having excellent and vast legal experience.

Andra Musatescu Law & Industrial Property Offices acted for Pure Fishing in this case