



PRESS RELEASE No 15/24

Luxembourg, 24 January 2024

Judgment of the General Court in Case T-537/22 | Delta Sport Handelskontor v EUIPO - Lego (Building block from a toy building set)

Intellectual property: the General Court of the European Union upholds the validity of the protection of the Lego toy brick

Since 2010, the Danish company Lego has benefited from protection of the design of its toy brick, pictured below, within the European Union.



In 2019, on an application made by a German company, Delta Sport Handelskontor, the European Union Intellectual Property Office (EUIPO) annulled that protection for the Lego brick. EUIPO considered that all the features of appearance of the Lego brick were solely dictated by the technical function of the product, namely to allow assembly with, and disassembly from, the rest of the bricks of the set.

However, in 2021, the General Court annulled EUIPO's decision ¹. EUIPO consequently adopted a new decision rejecting the application for invalidity made by Delta Sport Handelskontor. It found that it had not been appropriate to cancel the protection for the Lego brick since that brick benefited from a specific exception laid down in EU law which allowed for the protection of modular systems ².

In 2022, Delta Sport Handelskontor brought another action before the General Court asking it to annul EUIPO's new decision.

By its judgment delivered today, the General Court dismisses that action.

It finds, on the basis of its case-law and adding to it, **that a design is declared invalid only in the case where all its characteristics are excluded from protection**. In this case, since some of the arguments made by Delta Sport Handelskontor concern only one of the characteristics amongst several upheld by EUIPO, those arguments must be held to be ineffective and, for that reason, dismissed.

The General Court also finds that Delta Sport Handelskontor, which bears the burden of proof in this context, had not provided evidence capable of demonstrating that the design of the Lego toy brick does not meet certain conditions required in order to benefit from the exception protecting modular systems, namely novelty and individual character.

NOTE: EU trade marks and designs are valid in throughout the territory of the European Union. EU marks coexist with national marks. EU designs coexist with national designs. Applications for registration of EU trade marks and designs are addressed to the EUIPO. Actions against its decisions may be brought before the General Court.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to EU law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision. The appeal will not proceed unless the Court first decides that it should be allowed to do so. Accordingly, it must be accompanied by a request that the appeal be allowed to proceed, setting out the issue(s) raised by the appeal that is/are significant with respect to the unity, consistency or development of EU law.

Unofficial document for media use, not binding on the General Court.

The [full text and, as the case may be, the abstract](#) of the judgment are published on the CURIA website on the day of delivery.

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Images of the delivery of the judgment are available on '[Europe by Satellite](#)' ☎ (+32) 2 2964106.

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¹ Judgment of 24 March 2021, *Lego v EUIPO – Delta Sport Handelskontor (Building block from a toy building set)*, T-515/19 (see also Press Release [48/21](#)).

² [Council Regulation \(EC\) No 6/2002](#) of 12 December 2001 on Community Designs.