

## General Court: wavy rectangle is not a Haribo Goldbear and lacks distinctiveness

Pascal Böhner  
BARDEHLE PAGENBERG Partnerschaft mbB  
29 July 2025



Shutterstock/Irina Starikova1811

### EUROPEAN UNION

Legal updates: case law analysis and intelligence

- Rigo Trading argued that the relevant public would recognise the mark as representing "a Haribo Goldbear gummy bear with distinctive characteristics"
- The court found that the mark represented "the wavy outline of a rectangular shape" and provided no "indication of a characteristic of an animal"
- Rigo Trading had failed to provide any evidence supporting its claim

The General Court's decision in [Rigo Trading SA v EUIPO](#) (Case T-215/24, 16 July 2025) addresses the registrability of a figurative mark representing – according to the court – a wavy rectangle:



Rigo Trading argued that the relevant public would recognise this mark as representing "a Haribo Goldbear gummy bear with distinctive characteristics, namely ears, arms, legs and a head". The court's decision highlights the stringent standards applied to simple geometric shapes and provides valuable guidance on the distinctiveness requirements under EU trademark law.

The key takeaways are as follows:

1. Simple geometric shapes or comparably simple designs generally lack the distinctive character required for EU trademark registration.
2. A sign must have certain characteristics that can be easily memorised and immediately perceived as an indication of commercial origin.
3. Applicants must provide evidence that the relevant public would recognise the mark as an indicator of origin rather than merely a decorative element.
4. Each trademark application must be assessed individually on its merits against the criteria for protection, regardless of whether similar trademarks have been registered previously.

## Decision

The General Court's analysis focused extensively on the simplicity of the mark and its inability to function as an indicator of commercial origin. In Paragraphs 25 to 31 of the judgment, the court provided a detailed reasoning as to why the mark lacked distinctive character within the meaning of Article 7(1)(b) of Regulation 2017/1001.

The court described the mark as "a two-dimensional geometric figure of no particular complexity", consisting of "a thick black line that represents the outline of a closed shape with curved sides on a white background". It further characterised the sign as "a flat shape with four wavy sides and four curved angles, with opposite sides of equal length and two vertical sides longer than the other two horizontal sides".

Crucially, the court determined that the mark represented "the wavy outline of a rectangular shape, the simplicity of which was comparable to a basic (rectangular) geometric figure". The court emphasised that no element of the shape was "memorable or eye-catching" and that it provided no "indication of a characteristic of an animal or, more generally, of a creature".

The court noted that signs which are excessively simple and constitute basic geometrical figures, such as circles, lines or rectangles, are generally incapable of conveying a message that consumers will remember. Consequently, such signs will not be regarded as trademarks unless they have acquired distinctiveness through use. The court extended this principle to marks the simplicity of which is comparable to that of basic geometric figures.

Despite Rigo Trading's assertion that the relevant public would recognise the mark as representing a Haribo Goldbear gummy bear, the court found that the company had failed to provide any evidence supporting this claim. When questioned at the hearing, Rigo Trading confirmed that there was no evidence in the administrative file relating to the perception of the relevant public of the sign as an indication of commercial origin or as a representation of a bear.

The court also addressed the principle that each trademark application must be assessed individually, emphasising that, while the EUIPO must consider previous decisions regarding similar applications, the examination of any trademark application must be stringent and full, undertaken in each individual case based on specific criteria applicable to the particular factual circumstances.

## Comment

The decision reinforces the established principle that simple geometric shapes, or designs of comparable simplicity, generally lack the distinctive character required for EU trademark registration. Applicants seeking to register such marks must provide compelling evidence that the relevant public perceives them as indicators of commercial origin rather than mere decorative elements.

This case serves as an important reminder that each trademark application is assessed individually against the criteria for protection, and highlights the high threshold for distinctiveness that applicants must meet, particularly for simple designs.



**Pascal Böhner**

Partner

BARDEHLE PAGENBERG

[pascal.boehner@bardehle.de](mailto:pascal.boehner@bardehle.de)

[View full biography](#)