



EU Case Law April – September 2025

ARQUE
ADVOCATEN

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10 October 2025

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TRADEMARKS – BAD FAITH

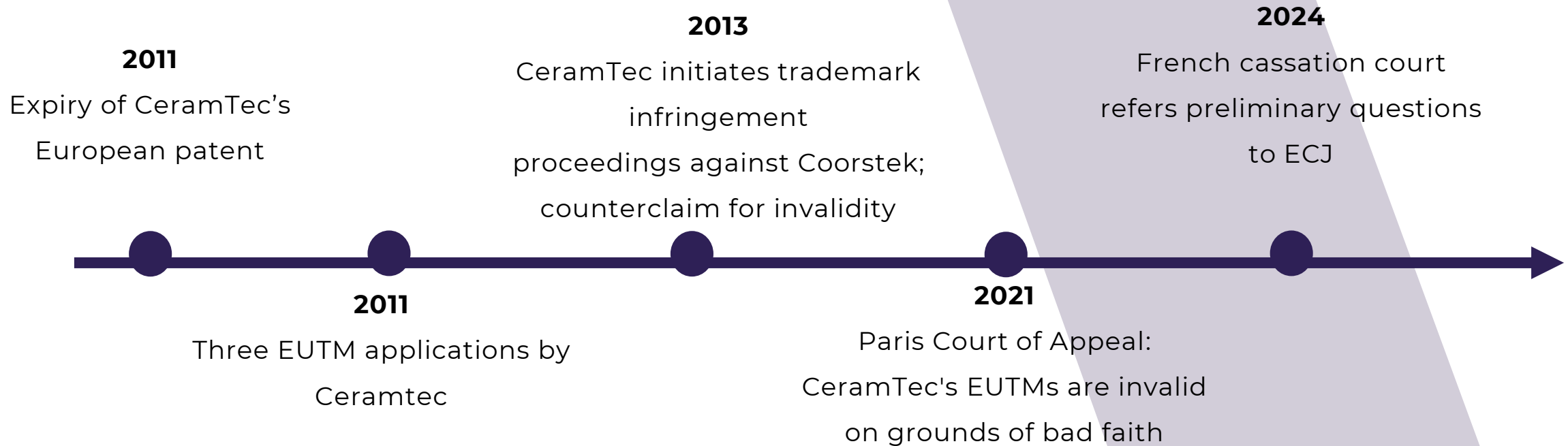


CERAMTEC / COORSTEK BIOCERAMICS

CJEU 19 June 2025, ECLI:EU:C:2025:455



CERAMTEC / COORSTEK BIOCERAMICS



CERAMTEC / COORSTEK BIOCERAMICS

Art. 52(1) CTMR (art. 59(1) EUTMR)

A Community trade mark shall be declared invalid (...):

- a) where the Community trade mark has been registered contrary to the provisions of Article 7;*
- b) where the applicant was acting in bad faith when he filed the application for the trade mark.*



CERAMTEC / COORSTEK BIOCERAMICS

- Absolute grounds of art. 7 and bad faith ground are autonomous and do not exclude each other.
- Bad faith may be demonstrated by the intention to continue to monopolise a technical solution via a trademark after patent expiration.
- Bad faith is assessed at the time of application, facts after application are not relevant.

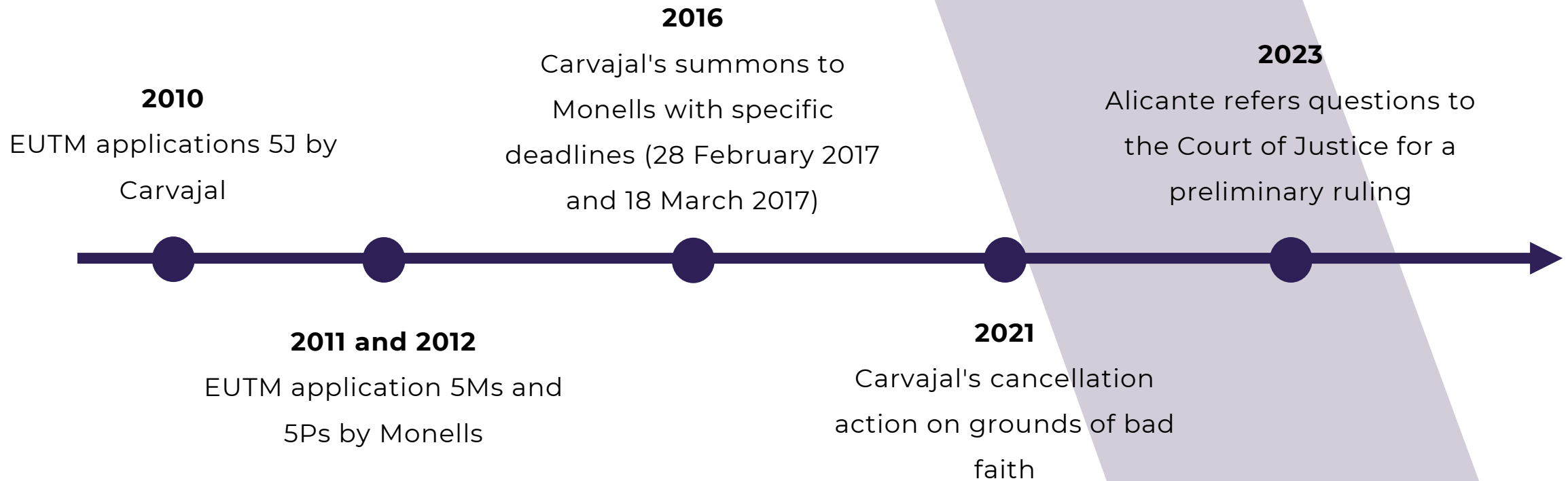


CARJAVAL / MONELLS

CJEU 10 July 2025, ECLI:EU:C:2025:556



CARJAVAL / MONELLS



CARJAVAL / MONELLS

Art. 9 TM Directive:

*Where (...) the proprietor of an earlier trade mark (...) **has acquiesced**, for a period of five successive years, in the use of a later trade mark (...) **while being aware of such use**, he shall **no longer be entitled** (...) either **to apply for a declaration that the later trade mark is invalid or to oppose the use of the later trade mark (...), unless registration of the later trade mark was applied for in bad faith.***



CARJAVAL / MONELLS

- Invalidation action on the basis of bad faith remains possible after acquiescence.
- No time limit for bad faith actions; absolute grounds for invalidity.
- Tolerance or own actions (such as setting a deadline) do not limit this right.

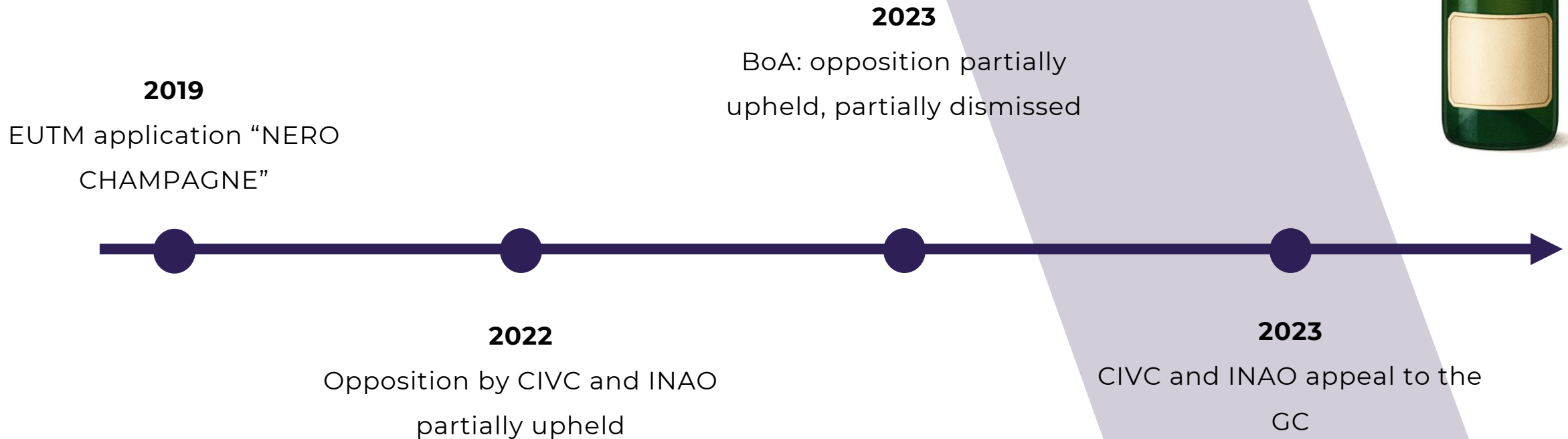


MISREPRESENTATION



NERO CHAMPAGNE

GC 25 June 2025, ECLI:EU:T:2025:638



NERO CHAMPAGNE

Art. 8 (6) EUTMR

Upon opposition by any person authorised (...) to exercise the rights arising from a designation of origin or a geographical indication, the trade mark applied for shall not be registered where (...):

(i) an application for a designation of origin or a geographical indication had already been submitted, (...), prior to the date of application for registration of the EU trade mark (...), subject to its subsequent registration;

(ii) that designation of origin or geographical indication confers the right to prohibit the use of a subsequent trade mark.



NERO CHAMPAGNE

Artikel 103(2) Reg. 1308/2013

A protected designation of origin and a protected geographical indication, as well as the wine using that protected name in conformity with the product specifications, shall be protected against:

(a) (...) commercial use of that protected name:

*(i) by comparable products **not complying with the product specification** (...); or*

*(ii) in so far as **such use exploits the reputation** of a designation of origin or a geographical indication;*

*(b) **any misuse, imitation or evocation**, even if the true origin of the product or service is indicated or if the protected name is translated, transcribed or transliterated or accompanied by an expression such as "style" (...) or similar;*

*(c) **any other false or misleading indication** as to the provenance, origin, nature or essential qualities of the product, (...);*

*(d) **any other practice liable to mislead** the consumer as to the true origin of the product.*



NERO CHAMPAGNE

- EUTM application “NERO CHAMPAGNE” for wine and services refused.
- Use of protected designation of origin (PDO) "champagne" in brand name must not exploit or mislead PDO reputation.
- NERO CHAMPAGNE is misleading despite compliance with product dossier.
- BoA should have assessed all circumstances; duty to state reasons violated.



ICELAND

GC 16 July 2025, ECLI:EU:T:2025:729



ICELAND

- "ICELAND" invalid for foodstuffs, retail, household appliances...
- Descriptive of geographical origin & characteristics products/services.
- Even if the country does not (yet) have a reputation for all products, EUTM may still be descriptive.
- Country names must stay available; registration can't restrict competition.
- No TM protection well-known geographical names with direct link to the goods/services.



NON-TRADITIONAL MARKS



SOUND: BVG / EUIPO



GC EU 10 September 2025, ECLI:EU:T:2025:847

BVG Standardgong

8 $\text{♩} = 120$

Synth legato

Synth Bell

Synth Pad soft

Synth Pad strong



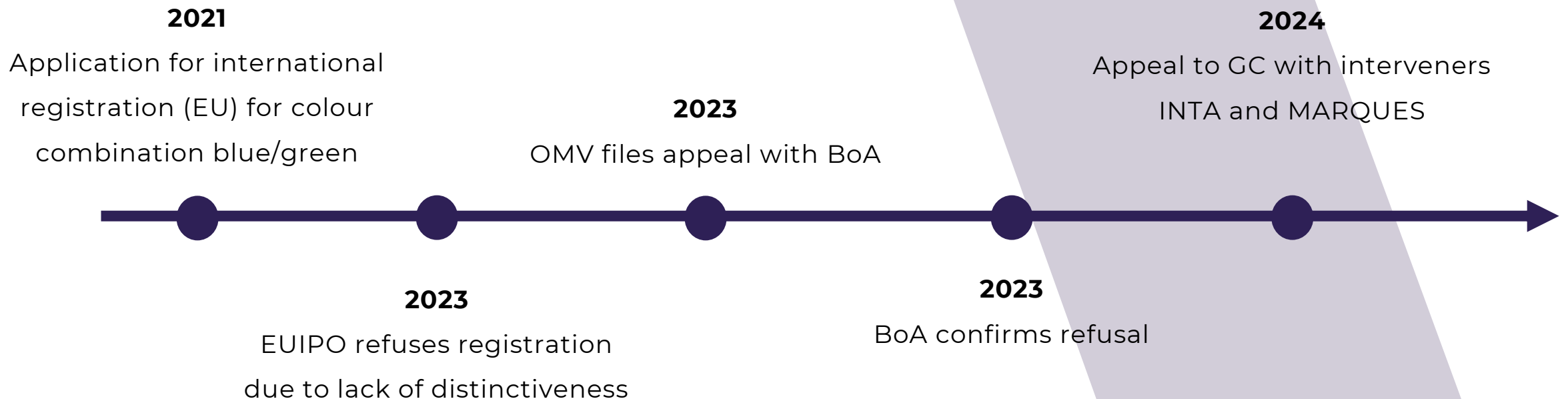
BVG / EUIPO

- Sound mark (jingle) for transport services initially refused due to lack of distinctiveness
- Short, simple jingles can be distinctive in the transport sector.
- Important factors: industry customs and public recognition.
- EUIPO decision annulled.



COLOUR: OMV AG / EUIPO

GC 11 June 2025, Case T-38/24



OMV AG / EUIPO



Esso	 Source: https://www.esso.de/de-da/tankstellenpartner-werden	Avia	 Source: https://www.oberoesterreich.at/oesterreich-poi/de-171543/avia-tankstelle-nied-selfriedberger-tsb-gmbh.html
Turnöl	 Source: https://turnoil.at/tanken/	JET	 Source: https://www.jet-tankstellen.at/de/index.php
Shell	 Source: https://vickiadruck.news/article/shell-eroffnet-weitere-tankstelle-der-zukunft-in-regau	AP-Trading	 Source: https://www.austropetrol.com/
SOCAR	 Source: https://www.socarenergy.ch/de-ch/news/socar-eroffnet-erste-tankstelle-osterreich.html	Disk	 Source: https://www.fieberbrunn.com/de/service/info-fieberbrunn/fieberbrunn_von_a_bis_z/DISK-Tankstelle_id_57410
Genol	 Source: https://www.genol.at/lernen/	Al1	 Source: https://a1tankstelle-drachwandtner.sta.io/galerie/q/2898/89210/
LM-Energy	 Source: https://www.lm-energy.at/tankstellen-netz/		 Source: https://www.treppacher.at/tankstellen/tankstellennetz/gt-treppacher-ries-a-brenner.html



OMV AG / EUIPO

- Trademark invalid: lack of inherent distinctive character.
- Colours normally perceived as decorative, not origin indicator.
- Combination blue/green common in energy and fuel sector, evokes environmental connotations not origin.
- Market studies insufficient.
- Public interest principle: colours should not be monopolized.
- EUIPO guidelines and past registrations not binding.



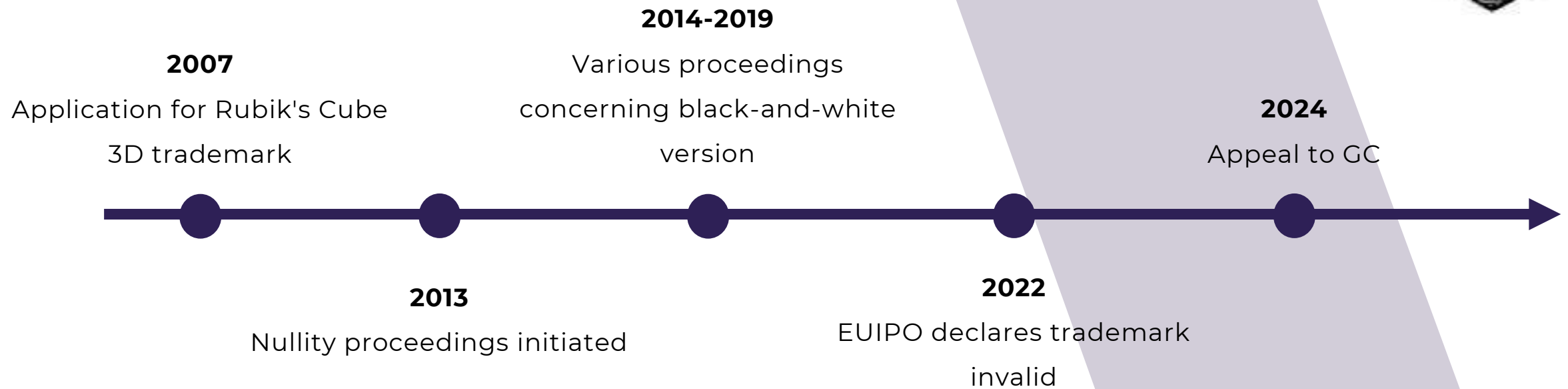
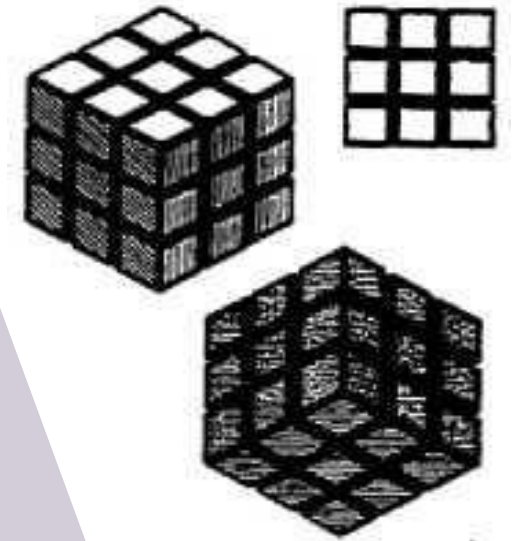


Source:
<https://www.youtube.com/watch?v=ZcYqApvg4Bc>



3D: SPIN MASTER TOYS / EUIPO

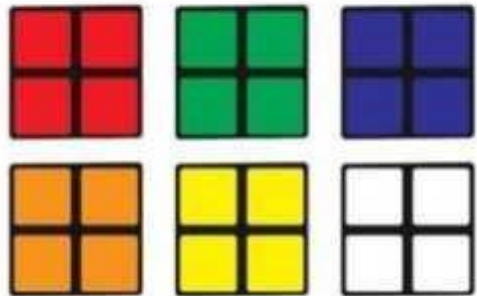
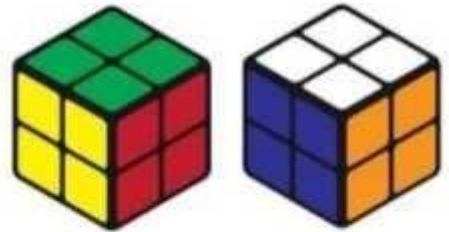
GC 9 July 2025, ECLI:EU:T:2025:691



SPIN MASTER TOYS / EUIPO

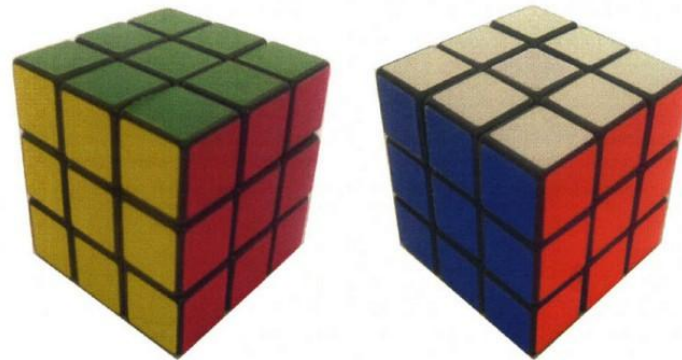
Case T-1170/23

2x2



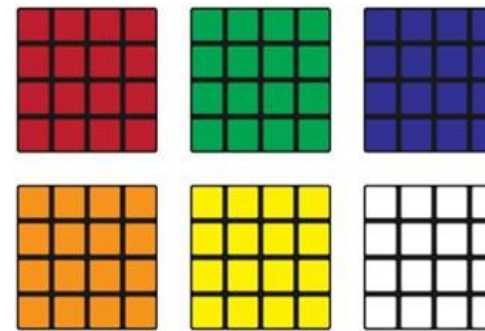
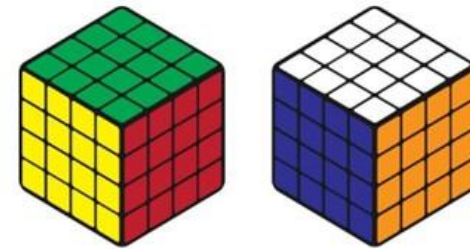
Case T-1171/23

3x3



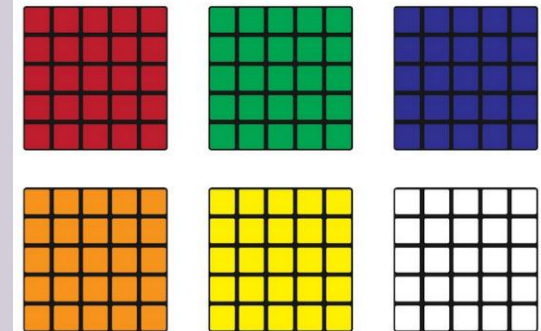
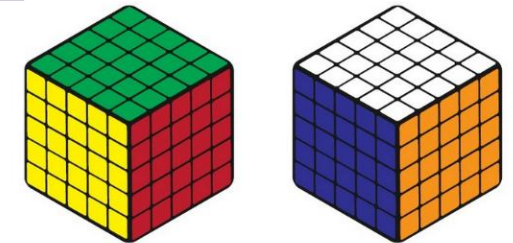
Case T-1172/23

4x4



Case T-1173/23

5x5



SPIN MASTER TOYS / EUIPO

- All four trademarks invalid: technically determined.
- Essential features: cubic form; grid & **colour contrast**.
- N.B. specific colours themselves not essential.
- Aim Rubik's cube: getting the same colours on the same side through rotation = technical function.
- All essential features serve that technical function.

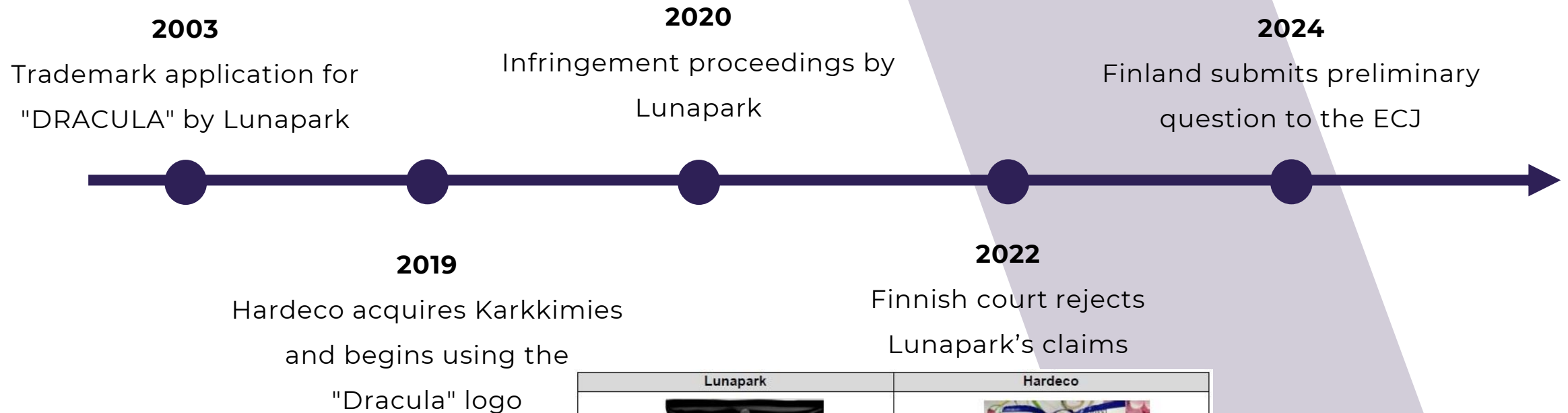


MISCELLANEOUS



ACQUIESCENCE: LUNAPARK / HARDECO

CJEU 1 August 2025, ECLI:EU:C:2025:618

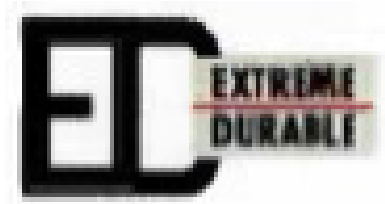


LUNAPARK / HARDECO

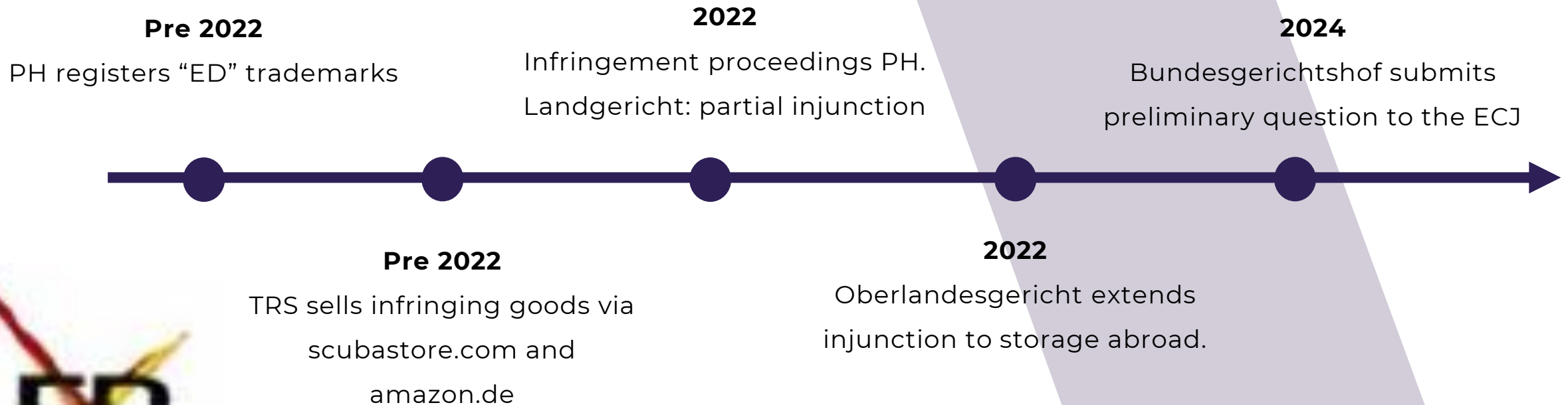
- Art. 10 TMD: full harmonization of scope and content trademark rights.
- TMD exhaustively determines when inactivity ➔ loss of rights:
 - five years of conscious tolerance; and
 - younger mark filed in good faith (art. 9 & 18 TMD)
- No room for deviating national rules.
- In this case: conditions for acquiescence not met (younger TM not registered).



STOCKING: TRADEINN / PH



CJEU 1 August 2025, ECLI:EU:C:2025:593



TRADEINN / PH

- Art. 10(3)(b) TMD. Stocking infringing goods in Member State can be prohibited if those goods are intended for sale in a Member State where TM is protected.
- Not only direct, physical possession but also indirect control over goods.
- Online offerings aimed at consumers in a protected Member State sufficient for infringement.



DESIGN LAW





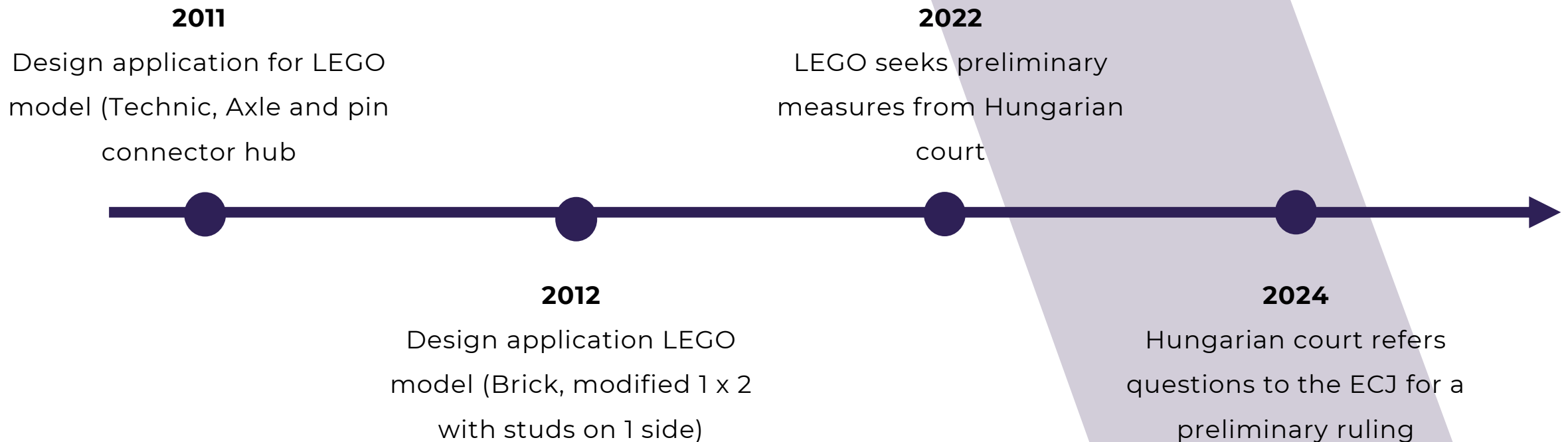
Source:

https://youtu.be/aIL99DW4gdA?si=9QqU9Sb8iIl_uO3Ab



LEGO / POZITIV ENERGIAFORRAS

CJEU 4 September 2025, ECLI:EU:C:2025:153

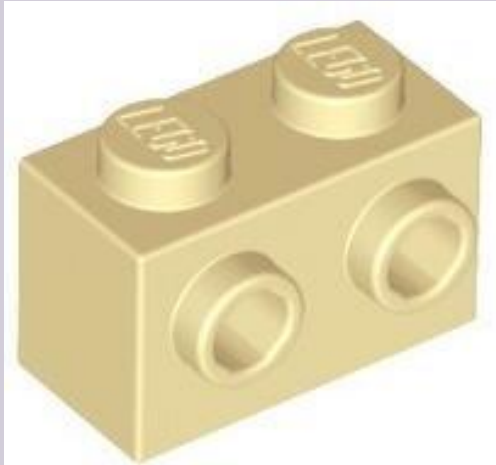


LEGO / POZITIV ENERGIAFORRAS

Lego designs



Design nr.
001950981-000
22 november 2011



Design nr.
002137190-0002
16 november 2012

Pozitiv Energiaforras



LEGO / POZITIV ENERGIAFORRAS



- Art. 8(3) CDR: modular systems (e.g. LEGO) exception.
- “Informed user” = attentive, but not a designer or technical expert.
- Limited design freedom → small differences sufficient to avoid infringement.
- “Special reasons” not to take measures against infringers (art. 89(1)) interpreted strictly and uniformly.
- Limited scope of infringement not a “special reason”.



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THANK YOU

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