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TurkAegean: Is it abusive to argue trademark invalidity on absolute grounds?

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Manolis Metaxakis of Patrinos & Kilimiris Law Offices considers the implications of the EUIPO ruling in favour of the Hellenic Republic concerning the validity of the ‘TurkAegean’ trademark

The Turkish Tourism Promotion and Development Agency has applied before the EUIPO for the trademark ‘TurkAegean’ to designate tourism-related services. This trademark was initially accepted for registration by the EUIPO. However, the registrability of the mark was the subject of intense debate due to various absolute grounds under the [EU Trademark Regulation](#) (EUTMR) regime.

This was confirmed by decision [C 58 927](#) of the EUIPO’s Cancellation Division of January 10 2025; under which, the application for a declaration of invalidity filed by the Hellenic Republic was upheld. It was particularly held that the trademark ‘TurkAegean’ was non-distinctive and descriptive, and, thus, invalid.

The EUIPO’s Cancellation Division was also called upon to rule on a preliminary issue; namely, whether filing an application for a declaration of invalidity could be regarded as an abuse of right. In this respect, it was held that unlike relative grounds, which protect a third party’s interests, absolute grounds are aimed at protecting general interests. It follows that the potential or actual economic interest pursued by the applicant for a declaration of invalidity is not of relevance and, consequently, there can be no question of an ‘abuse of rights’ while filing a declaration of invalidity of that type.

One must take into account that this kind of objection should, as a matter of law, be examined first; that is to say, before the deciding body gets into the substance of the case. The risk is obvious: a trademark that is actually invalid on absolute grounds may nevertheless survive because its registrability is linked with a third party’s potential or actual economic interests.

The above-mentioned ruling is well established. In fact, any approach to the contrary is not favoured by established EU case law. The purpose of the administrative procedure laid down in the EUTMR is, inter alia, to enable the EUIPO to review the validity of the registration of a trademark and to adopt, where necessary, a position that it should have adopted of its own motion ([C-622/13](#), Section 42; [C-450/13](#), Section 40).

In essence, this is about the fundamental principle of legality. All decisions concerning the registration of a sign as an EU trademark, which the EUIPO is called on to take under the EUTMR, are adopted in the exercise of circumscribed power and are not a matter of discretion ([C-37/03](#), Section 47).

In plain words, there can be no immunity for a trademark that is actually invalid on absolute grounds. Legal certainty prevails.

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