

Serbian Court Issues Interesting Decision in UGG Boots Case

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PETOŠEVIĆ Serbia recently represented Serbian footwear retailer Obuća Metro, the defendant in a lawsuit filed against them by the U.S. footwear distributor Deckers Outdoor Corporation, the owner of the UGG brand.

On December 31, 2019, Serbian market inspectorate officials detained 38 pairs of boots imported by Obuća Metro suspected of infringing the intellectual property rights of Deckers Outdoor Corporation and its UGG brand.

Initially, an attempt was made to settle the matter out of court, but eventually Deckers filed a lawsuit with the Commercial Court in Belgrade on February 10, 2020 and requested a preliminary injunction (detention of goods until the end of the proceedings). At the same time, the defendant requested that the preliminary injunction and the lawsuit be dismissed as legally unfounded.

Because Deckers does not have registered design rights for its UGG boots in Serbia, the lawsuit was based on copyright infringement of the UGG boot design drawing in the company's design registration valid in the EU and the US. The defendant argued that Deckers did not prove that the author of the drawing transferred the copyright to the company. The defendant also gave an example of Emu Ridge Holdings Pty LTD, an Australian company that produces boots similar to UGG boots, arguing that copyright cannot be claimed in this case.

The Commercial Court dismissed the preliminary injunction. Deckers appealed this decision but the appeal was also dismissed. The U.S. company then requested another preliminary injunction, which the court again dismissed. On September 9, 2021, the Court finally dismissed the lawsuit as legally unfounded. The Commercial Court's decision was appealed, but it appears unlikely that the decision will be overturned.

This case is interesting because it illustrates and emphasizes the need to register designs in order to be able to claim infringement.

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