JUDGMENT OF THE GENERAL COURT (Second Chamber, Extended Composition)

(Appeal – Decisions of the Boards of Appeal of the European Union Intellectual Property Office – Trade marks – Admissibility – Article 1(5) and of Regulation 2017/1001 – Rights in respect of the Union mark – Extinction of the Union mark – Revocation – Article 58(1)(a) of Regulation 2017/1001 – Proof of genuine use – Article 19(1) of Regulation 2017/1001)

In Case T-627/23,

**Amazon EU Sàrl**, established in Luxembourg, represented by Ms Pauline Pierre, lawyer, and Mr Jonathan Gilmore, barrister,

applicant,

supported by

**Marketwatch Financial Commercial and Media Communications** (MFCC), established in Berlin (Germany), represented by M. Ian Brian and V. Lomonaco, lawyers,

intervener,

v

**European Commission**, represented by A. Ismael, P. Romero Castillo and P. Lasanowski, acting as Agents,

defendant,

supported by

**Amazon Services Europe Sàrl**, represented by M. Mosquera, E. McCreath and C. Stark, acting as Agents,

by

**Council of the European Union**, represented by S. Velluto, M. Bresinski and M. Moore, acting as Agents,

and by

**Wolters Kluwer Deutschland GmbH**, represented by J. Bornkamm, lawyer, and M. Schmitz, lawyer, barrister,

interveners.

THE GENERAL COURT (Second Chamber, Extended Composition),

composed at the time of the deliberations of S. Papasavvas (President), N. Półtorak (Rapporteur), G. Berardis, A. Dimitrakopoulos, O. Porchia and G. Hercogová, Judges,

Registrar: V. Sgnaolino, Administrator,

having regard to the order of the President of the Court of Justice of 27 March 2024 and the order of 27 September 2024 asserting the court can be seated,

gives the following

## Judgment

1 By action under Article 263 TFEU, the applicant, Amazon EU Sàrl, successor in law to Amazon Services Europe Sàrl, seeks annulment of Commission Decision C(2023) 2196 final of 27 April 2023 relating to proceedings for revocation between Marketwatch Financial Commercial and Media Communications (MFCC) and Wolters Kluwer Deutschland GmbH (Case R 2411/2021-4, 'the contested decision').

### I. Background to the dispute

2 The applicant applied to the European Union Intellectual Property Office (EUIPO) for the extinction of a Union mark, which it has since ceased to exist, for goods and services in Class 9 of the Nice Agreement concerning the International Classification of Goods and Services of 15 June 1957, as revised and amended, and in particular:

– On 5 February 2021, the applicant published in its revenue pursuant to Article 58(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 October 2015 on a Union trade mark (OJ 2017 L 154, p. 1) (the 'Regulation 2017/1001') and Article 19(1) of Regulation 2017/1001 

appropriate for attaining an objective of general interest recognised by the European Union, second, that the interference with the fundamental right to respect for private life which may result from those obligations is limited to what is strictly necessary, in the sense that the objective pursued could not reasonably be achieved in an equally effective manner by other means less prejudicial to that right, and, third, provided that this is indeed the case, that that interference is not disproportionate and does not impose a burden that outweighs that objective, which implies, in particular, a balancing of the importance of the objective and the seriousness of the interference (see, to that effect, judgment of 29 July 2024, *Belgian Association of Tax Lawyers and Others*, C-623/22, EU:C:2024:639, paragraph 139). In that regard, it should be borne in mind, however, that the right of interference with private life is liable to be more far-reaching where professional or business activities are involved than would otherwise be the case (see, to that effect, judgments of 22 October 2002, *Roquette Frères*, C-94/00, EU:C:2002:603, paragraph 29, and of 29 July 2024, *Belgian Association of Tax Lawyers and Others*, C-623/22, EU:C:2024:639, paragraph 127).

192 First, contrary to bevh's submissions, the limitations resulting from Article 39 and Article 40(4) and (12) of Regulation 2022/2065 are appropriate for attaining an objective of general interest recognised by the European Union. As noted in paragraphs 89 and 118 above, those provisions are intended to reduce systemic risks in order, inter alia, to contribute to a high level of consumer protection enshrined in Article 38 of the Charter.

193 Second, as is apparent from paragraphs 86 to 89 above, the measures relied on by the applicant as an alternative to Article 39 of Regulation 2022/2065 do not make it possible to achieve the same level of consumer protection.

194 In addition, the applicant has not put forward any other argument capable of establishing that Article 39 of Regulation 2022/2065 goes beyond what is strictly necessary to make information available to consumers regarding the advertisements displayed on very large online platforms, including those to which they are not exposed in view of the targeting parameters used, and to understand the reasons why, in the light of those parameters, they are exposed to certain advertisements rather than others. Nor has it adduced any argument capable of establishing that that provision goes beyond what is strictly necessary to enable the media and consumer protection associations to monitor advertisements posted on very large online platforms, in particular with a view to preventing the promotion of illegal or inappropriate products to certain audiences, such as minors.

195 Similarly, the applicant has not submitted any argument to support the view that Article 40(4) and (12) of Regulation 2022/2065 goes beyond what is strictly necessary in order to be able to detect, identify and understand systemic risks in the European Union. Moreover, the applicant does not rely on the existence of measures alternative to that provision which would make it possible to achieve that objective.

196 Third, as has been noted in paragraphs 111 and 188 above, it should be noted that the information disseminated pursuant to Article 39 of Regulation 2022/2065 concerns only a limited part of the economic activity of marketplaces. Furthermore, part of that information, such as that relating to the content of the advertisements, products and brands advertised, is not confidential and the information which is the most commercially sensitive for the applicant, namely information relating to the success of an advertisement, is not part of the information disseminated under that provision.

197 In addition, in so far as the applicant relied, at the hearing, on the disclosure of the name of the natural persons referred to in Article 39(2)(b) and (c) of Regulation 2022/2065, it should be noted that that disclosure concerns only advertisers who have chosen to display advertisements on a very large online platform. Furthermore, it follows from that provision that the repository does not contain information relating to a natural person where the advertisement has been presented and paid for by a legal person. Thus, it remains open to those advertisers to establish a legal person in order not to disclose their identity.

198 As for Article 40(4) and (12) of Regulation 2022/2065, it merely provides, in specific cases, for the provision of information to vetted researchers so as to preserve the confidential nature of that information.

199 Moreover, the Court of Justice has placed emphasis, in its case-law, on the nature and significance of the public interest constituted by the protection of consumers, who are in a position of weakness vis-à-vis sellers or suppliers (see judgment of 3 April 2019, *Aqua Med*, C-266/18, EU:C:2019:282, paragraph 43 and the case-law cited). The objective of protecting consumers is all the more important with regard to providers of very large online platforms, such as the applicant, which, as noted in paragraph 77 above, may give rise to systemic risks for society.

200 In those circumstances, it must be held that Article 33(1) of Regulation 2022/2065, in so far as it imposes on certain marketplaces the obligations laid down in Article 39 and Article 40(4) and (12) of that regulation, does not constitute a disproportionate interference with the right to respect for private life guaranteed in Article 7 of the Charter and does not impose a burden that outweighs the objectives pursued.

201 It follows that the applicant and bevh are not justified in claiming that Article 33(1) of Regulation 2022/2065 infringes Article 7 of the Charter.

202 Last, bevh submits that Article 33(1) of Regulation 2022/2065 infringes the protection of personal data protected in Article 8 of the Charter, in so far as it imposes on certain marketplaces the obligations laid down in Article 39 of that regulation. It submits that the information disseminated pursuant to the latter provision includes 'the identity or legal person on whose behalf the advertisement is presented and paid'. It is sufficient to note that personal data may relate only to natural persons, and not to legal persons, as is apparent from the Explanations relating to the Charter and from Directive 95/46/EC of the European Parliament and of the Council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data (OJ 1995 L 281, p. 31), to which those explanations refer. In addition, even if bevh intended to refer to the natural persons covered by Article 39(2)(b) and (c) of Regulation 2022/2065, it should be noted that an infringement of Article 8 of the Charter would, in any event, be ruled out for the reasons set out in paragraphs 189 and 197 above.

203 Consequently, the fifth part of the first plea in law must be rejected, without it being necessary to rule on the admissibility, disputed by the Commission, of certain arguments raised in support of it in the reply.

204 Consequently, the first plea in law must be rejected in its entirety.

### *B. The second and third pleas in law, alleging the illegality of Article 38 and Article 39 of Regulation 2022/2065, respectively*

205 By its second and third pleas in law, the applicant claims that Article 38 and Article 39 of Regulation 2022/2065, respectively, are unlawful.

206 The applicant submits that the arguments put forward in the second and third pleas must be understood as being also put forward in the context of the first plea.

207 More specifically, as noted in paragraphs 19 and 31 above, by its first plea, the applicant submits that Article 33(1) of Regulation 2022/2065 is unlawful on the ground that it imposes on certain marketplaces the obligations referred to in Articles 34 to 43 of that regulation, which are themselves unlawful. It follows from paragraph 32 of the reply that its arguments relating specifically to Articles 38 and 39 of that regulation, put forward in the context of the first plea, must be regarded as also having been put forward in the context of the second and third pleas and vice versa.

208 Consequently, since the first plea in law has been rejected as unfounded, the second and third pleas in law must therefore also be rejected as unfounded, without it being necessary to rule on their admissibility, which is disputed by the Commission, the Parliament, the Council and BEUC.

209 It follows from all of the foregoing that the action must be dismissed in its entirety, without it being necessary to rule on the admissibility, disputed by the Commission, of the second head of claim.

## IV. Costs

210 Under Article 134(1) of the Rules of Procedure, the unsuccessful party is to be ordered to pay the costs if they have been applied for in the successful party's pleadings. Since the applicant has been unsuccessful, it must be ordered to pay the Commission's costs, including those relating to the proceedings for interim measures, in accordance with the form of order sought by the Commission.

211 In addition, according to Article 138(1) of the Rules of Procedure, the institutions which have intervened in the proceedings are to bear their own costs. The Parliament and the Council shall therefore bear their own costs.

212 Likewise, pursuant to Article 138(3) of the Rules of Procedure, BEUC and bevh shall bear their own costs.

On those grounds,

THE GENERAL COURT (Seventh Chamber, Extended Composition)

hereby:

1. **Dismisses the action;**

2. **Orders Amazon EU Sàrl to bear its own costs and to pay those incurred by the European Commission, including those relating to the proceedings for interim measures;**

3. **Orders the European Parliament, the Council of the European Union, Bureau européen des unions de consommateurs (BEUC) and Bundesverband E-Commerce und Versandhandel Deutschland eV (bevh) to bear their own costs.**

Papasavvas Kowalik-Bańczyk Buttigieg

Dimitrakopoulos Ricziová

Delivered in open court in Luxembourg on 19 November 2025.

V. Di Bucci M. van der Woude

Registrar President

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* Language of the case: English.