

# EIP



## Jaguar Land Rover fails in attempt to register trademark for shape of its cars

Jaguar Land Rover's application to register an EU-wide trademark for the shape of one of their Land Rover cars has been rejected by the EU General Court.

The application covering the 3D shape of the Range Rover Evoque was refused on the basis that it was not distinctive enough to function as a trademark. The 3D shape was simply seen as a variation of existing car shapes, and that is not enough to obtain trademark protection.

Jaguar Land Rover first applied to register the 3D shape for cars and toy cars on 30 November 2012 and the company has been fighting to obtain the Community Trade Mark registration since then.

The Court stated: "The features visible were typical for modern cars, such as a flat windscreen, a rounded front, a sloping coupe roofline, a rising waistline, bumpers as well as front and back lights integrated into the hull, and the airflow (aerodynamic) wing at the top of the rear."

Jaguar Land Rover may only appeal this decision if it wants to challenge how the General Court has interpreted EU law.

### **Comments**

This appears to be a sensible and common-sense decision from the EU General Court.

As the function of a trademark is to denote trade origin, Jaguar Land Rover had to prove

that consumers of the cars and toy cars would recognise that the car originated from Jaguar Land Rover based on the line-drawings alone, which do not refer to the name of the car model or manufacturer.

On the face of it, shapes should not be any harder to register as trademarks than words or logos, but in practice they are, because it is difficult for applicants to show that consumers look at the shape of the product alone as an indicator of trade origin. The public are not accustomed to identifying the origin of products based on their shape, and will normally pay more attention to the brand or model name, instead. Where that is the case, i.e. the shape is not distinctive for the product, it is not capable of registration as a trademark.

By Sharon Daboul