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Mad Dogg Athletics spins to victory at EU court

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Courtesy of Mad Dogg Athletics

US-based [Mad Dogg Athletics](#) emerged victorious today after the EU General Court annulled a European Union Intellectual Property Office (EUIPO) decision to revoke the fitness company's rights to the EU trademark (EUTM) 'Spinning'.

Mad Dogg, which owns the fitness brands Spinning and CrossCore, had the trademark registered in 2000. It covers audio and video cassettes, exercise equipment, and exercise training services.

In 2012, Czech-based company Aerospinning Master Franchising filed for revocation of the rights, claiming that the trademark had become the common name for the exercise equipment and training in question.



Four years later, in July 2016, the EUIPO revoked Mad Dogg's rights for the goods and services covered by Aerospinning's application for revocation (exercise equipment and training), after finding that the term 'spinning' had become a common name.

Mad Dogg appealed against the decision to the General Court.

Today, the General Court found that a revocation decision concerning an EUTM has binding force for the whole of the EU and that the EUIPO was entitled to revoke the rights of the trademark based on evidence concerning a single member state (the Czech Republic).

However, the court went on to conclude that the EUIPO was wrong to consider the relevant public to be taken into consideration consisted only of users of exercise equipment and excluded professional customers.

In response to an oral question from the court previously, all parties agreed that the sporting activity in question was "practised on indoor cycles, in a group, generally in gyms, and under the guidance of a fitness instructor".

The General Court emphasised that the EUIPO had erred in not considering that professional customers weren't part of the general public because the indoor cycles were generally purchased by commercial operators of gyms, sports facilities and rehabilitation facilities.

"It must therefore be found, first, that those operators play a central role on the 'exercise equipment' market and, second, that they have a decisive influence on the selection, by end users, of 'exercise training' services," said the court.

The court added that the EUIPO should have taken into account the opinion of professional customers on whether the trademark had become a common name.

The General Court annulled the EUIPO's decision and ordered the office to pay Mad Dogg's costs.

John Baudhuin, CEO of Mad Dogg, said: "The Spinning brand is our most valuable asset and differentiates our products and programmes from those of our competitors and provides consumers with the assurance that the products they are purchasing meet these high standards we set for the Spinning brand of indoor cycling."

He added that the court's ruling reflects Mad Dogg's ongoing effort to protect its brand from competitors and counterfeiters that seek to "trade off the trust, reputation and goodwill" that the company has established with customers worldwide.

Jens Steinberg, partner at Greyhills Rechtsanwälte and Mad Dogg's representative, said that 'Spinning' is not a generic term that can be freely used in relation to any kind of indoor cycling training, but denotes a specific source origin related exclusively to Mad Dogg's line of goods and services.

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