

**Appeal brought on 4 February 2015 by BSH Bosch und Siemens Hausgeräte GmbH against the judgment of the General Court (Seventh Chamber) of 4 December 2014 in Case T-595/13 BSH Bosch und Siemens Hausgeräte GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

**(Case C-43/15 P)**

(2015/C 146/20)

*Language of the case: German*

**Parties**

*Appellant:* BSH Bosch und Siemens Hausgeräte GmbH (represented by: S. Biagosch, Rechtsanwalt)

*Other party to the proceedings:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

**Form of order sought**

The appellant claims that the Court should:

- set aside the judgment of the General Court (Seventh Chamber) of 4 December 2014 in Case T-595/13;
- annul the decisions of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 September 2013 and 3 December 2013 (Case R 1176/2012-1);

in the alternative,

- refer the case back to the General Court for judgment;
- order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs of the proceedings at both instances.

**Grounds of appeal and main arguments**

The present appeal has been brought against the judgment of the General Court by which that court dismissed the action brought by the appellant against the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 September 2013 in opposition proceedings R 1176/2012-1.

The appellant relies upon two grounds of appeal:

First, it alleges an infringement of Article 60 of Regulation (EC) No 207/2009 <sup>(1)</sup>, in that the General Court failed to observe the fact that the Board of Appeal was not allowed to vary the decision of the Opposition Division to the detriment of the appellant, since no admissible complaint had been brought by the respondent and Article 8(3) of the Rules of Procedure of the Boards of Appeal does not provide for cross-appeals.

Second, the appellant relies on an infringement of Article 8(1)(b) of Regulation (EC) No 207/2009. Where an earlier trade mark presents an easily recognisable alteration of a descriptive indication and the more recent trade mark itself contains that descriptive indication, even a high degree of similarity of the signs and identity of the goods cannot lead to a finding of a likelihood of confusion if the similarities of the signs are limited to the descriptive indication and relate only to goods which are described by that indication.

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<sup>(1)</sup> Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).