by the appellant. The General Court wrongly decided that the Board lawfully refused to exercise discretion when refusing to take the aforementioned documents into account.

(1) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, OJ L 11, p. 1
(2) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark, OJ L 78, p. 1

Appeal brought on 5 March 2012 by Bernhard Rintisch against the judgment of the General Court (Seventh Chamber) delivered on 16 December 2011 in Case T-109/09: Bernhard Rintisch v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case C-121/12 P)

(2012/C 165/16)

Language of the case: English

Parties

Appellant: Bernhard Rintisch (represented by: A. Dreyer, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Valfleuri Pâtes alimentaires SA

Form of order sought

The appellant claims that the Court should:

— annul the decision of the Seventh Chamber of the General Court (Court of First Instance) of 16 December 2011 in Case T-109/09;

— order OHIM to pay the costs of the proceedings.

Pleas in law and main arguments

The appellant submits that the contested judgment should be annulled on the ground that the General Court infringed Article 74(2) of Council Regulation (EC) No 40/94 (1) (CMTR) [now Article 76(2) of Regulation (EC) No 207/2009 (2)] and on the ground of misuse of power. According to the appellant the General Court wrongly interpreted Article 74/2) of Regulation (EC) No 40/94 by deciding that the Board of Appeal was right in not taking into account documents and evidence submitted by the appellant. The General Court wrongly decided that the Board lawfully refused to exercise discretion when refusing to take the aforementioned documents into account.

(1) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, OJ L 11, p. 1
(2) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark, OJ L 78, p. 1

Appeal brought on 5 March 2012 by Bernhard Rintisch against the judgment of the General Court (Seventh Chamber) delivered on 16 December 2011 in Case T-152/09: Bernhard Rintisch v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case C-122/12 P)

(2012/C 165/17)

Language of the case: English

Parties

Appellant: Bernhard Rintisch (represented by: A. Dreyer, Rechtsanwalt)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), Valfleuri Pâtes alimentaires SA

Form of order sought

The appellant claims that the Court should:

— annul the decision of the Seventh Chamber of the General Court (Court of First Instance) of 16 December 2011 in Case T-152/09;

— order OHIM to pay the costs of the proceedings.

Pleas in law and main arguments

The appellant submits that the contested judgment should be annulled on the ground that the General Court infringed Article 74(2) of Council Regulation (EC) No 40/94 (1) (CMTR) [now Article 76(2) of Regulation (EC) No 207/2009 (2)] and on the ground of misuse of power. According to the appellant the General Court wrongly interpreted Article 74/2) of Regulation (EC) No 40/94 by deciding that the Board of Appeal was right in not taking into account documents and evidence submitted by the appellant. The General Court wrongly decided that the Board lawfully refused to exercise discretion when refusing to take the aforementioned documents into account.

(1) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, OJ L 11, p. 1
(2) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark, OJ L 78, p. 1