



Reports of Cases

Order of the Court (Seventh Chamber) of 14 May 2013 — You-Q v OHIM

(Case C-294/12 P)

(Appeal — Community trade mark — Figurative mark containing the word element ‘BEATLE’ — Opposition by the proprietor of the Community and national word and figurative marks containing the word elements ‘BEATLES’ and ‘THE BEATLES’ — Refusal of registration by the Board of Appeal — Article 8(5) of Regulation (EC) No 40/94)

1. *Appeals — Grounds — Incorrect assessment of the facts and evidence — Inadmissibility — Review by the Court of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted (Art. 256(1) TFEU; Statute of the Court of Justice, Art. 58, first para.) (see paras 60, 64)*
2. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark enjoying a reputation — Protection of well-known earlier mark extended to dissimilar goods or services — Conditions (Council Regulation No 40/94, Arts 8(5)) (see paras 68, 69)*

Re:

Appeal against the judgment of the General Court (Eighth Chamber) of 29 March 2012 in Case T-369/10 *You-Q v OHIM — Apple Corps (Beatle)*, by which that Court dismissed an action for annulment brought by the applicant for the figurative mark including the word element ‘BEATLE’ for goods in Class 12 against Decision R 1276/2009-2 of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 31 May 2011, which annulled the Opposition Division’s decision rejecting the opposition brought by the proprietor of the Community and national word and figurative marks including the word elements ‘BEATLES’ and ‘THE BEATLES’ in respect of goods in Classes 6, 9, 14, 15, 16, 18, 20, 21, 24, 25, 26, 27, 28, 34 and 41.

Operative part

1. The appeal is dismissed.
2. You-Q BV is ordered to pay the costs.