

Mark or sign cited in opposition: The German word/figurative mark 'AXON' (No 1108589) for goods and services in classes 10, 12, 35 and 36

Decision of the Opposition Division: Rejection of the opposition

Decision of the Board of Appeal: Annulment of the decision of the Opposition Division and referral of the case back to the Opposition Division

Pleas in law: — There is no similarity between the marks opposed, within the meaning of Article 8(1)(b) of Regulation (EC) No 40/94⁽¹⁾.
— There is no likelihood of confusion.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

Action brought on 10 February 2003 by Julián Murúa Entrena against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-40/03)

(2003/C 101/71)

(Language of the case: Spanish)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of First Instance of the European Communities on 10 February 2003 by Julián Murúa Entrena, residing in El Ciego, Álava (Spain), represented by Ignacio Temiño Cenicerros, lawyer.

The applicant claims that the Court should:

- annul the contested decision refusing the Community trade-mark application No 62.588 in Class 33;
- order the parties to bear their own costs and half of the common costs.

Pleas in law and main arguments

Applicant for Community trade mark: Applicant

Community trade mark sought: Figurative mark 'Julián Murúa Entrena' — Application No 62.588 for products in Class 33 (wines).

Proprietor of mark or sign cited in the opposition proceedings: Bodegas Murúa S.A.

Mark or sign cited in opposition: Spanish trade mark 'MURUA' and international registration No 482.779 having effect in Germany, France, Austria, Switzerland and Benelux for products in Class 33.

Decision of the Opposition Division: Opposition accepted.

Decision of the Board of Appeal: Appeal dismissed.

Pleas in law: Incorrect application of Article 8(1)(b) of Regulation (EC) No 40/94 (likelihood of confusion).

Action brought on 10 February 2003 by La Maison de l'Europe Avignon-Méditerranée against Commission of the European Communities

(Case T-43/03)

(2003/C 101/72)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 10 February 2003 by La Maison de l'Europe Avignon-Méditerranée, established in Avignon (France), represented by François Martineau, lawyer.

The applicant claims that the Court should:

- order the defendant to pay EUR 100 000 to make good the damage suffered by La Maison de l'Europe Avignon-Méditerranée as a result of the disclosure of deceitful,