

Proprietor of mark or sign cited in the opposition proceedings: The applicant in this case

Mark or sign cited in opposition: The German word mark 'SOLEVI-TA' for goods in Class 32

Decision of the Opposition Division: Rejection of the opposition

Decision of the Board of Appeal: Dismissal of the applicant's appeal

Pleas in law: The applicant has submitted adequate evidence of genuine use of the opposing mark;

- Infringement of the maxim of party disposition laid down in the second sentence of Article 74(1) of Regulation 40/94;
- Failure to respect the right to be heard.

Action brought on 8 September 2003 by OpusDent GmbH against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-305/03)

(2003/C 275/79)

(Language of the case to be determined pursuant to Article 131(2) of the Rules of Procedure — language in which the application was submitted: German)

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 8 September 2003 by OpusDent GmbH, Freising (Germany), represented by P. Munzinger, lawyer. Dornier Medizintechnik GmbH, Weßling (Germany), was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul the decision of 23 June 2003 of the Second Board of Appeal of the defendant in Case R 579/2002-2;
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for Community trade mark: The applicant in this case

Community trade mark sought: The word/figurative mark 'OpusDent' for goods and services in Classes 9, 10 and 42 (inter alia, lasers, not for medical purposes; medical, dental and aesthetic lasers; medical and dental treatment) — Application No 1331230

Proprietor of mark or sign cited in the opposition proceedings: Dornier Medizintechnik GmbH

Mark or sign cited in opposition: The Community trade mark 'Opus' for goods in Class 10 (inter alia, medical tables for examinations and treatment, X-ray apparatus and X-ray work stations)

Decision of the Opposition Division: The opposition was upheld in respect of the goods 'medical, dental and aesthetic lasers' and rejected in respect of the remaining goods and services

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: No likelihood of confusion

Action brought on 8 September 2003 by Manel Camós Grau against Commission of the European Communities

(Case T-309/03)

(2003/C 275/80)

(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 8 September 2003 by Manel Grau, residing in Brussels, represented by M.-A. Lucas, lawyer.