

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 June 2004 in appeal R 453/2002-2;
- order the defendant to pay the costs.

*Pleas in law and main arguments:*

Applicant for Community trade mark: Anheuser-Busch, Inc.

Community trade mark sought: Word mark BUD for goods in Class 32 (beer, ale, porter, malted alcoholic beverages) – Application No 24 711

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

Mark or sign cited in opposition: German word and figurative marks Bit, BIT, Bitte ein Bit and Bitburger for goods and services in Classes 16, 18, 20, 21, 24, 25, 28, 32, 34 and 42 (inter alia beer and non-alcoholic drinks)

Decision of the Opposition Division: Opposition rejected

Decision of the Board of Appeal: Applicant's appeal dismissed

Pleas in law: There is considerable aural similarity between the marks  
Article 8(1)(b) of Regulation (EC) No 40/94 was applied incorrectly  
The BIT marks with earlier priority enjoy extended protection under Article 8(5) of the regulation

*Pleas in law and main arguments:*

Applicant for Community trade mark: Anheuser-Busch, Inc.

Community trade mark sought: Figurative mark American Bud for goods in Classes 16, 25 and 32 (inter alia paper, clothing, beer, ale, porter, malted alcoholic and non-alcoholic beverages) – Application No 398 966

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

**Action brought on 24 August 2004 by Bitburger Brauerei Th. Simon GmbH against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)**

**(Case T-351/04)**

(2005/C 19/55)

*(Language in which the application was submitted: German)*

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 24 August 2004 by Bitburger Brauerei Th. Simon GmbH, of Bitburg (Germany), represented by Michaela Huth-Dierig, lawyer. Anheuser-Busch, Inc., of St Louis (United States of America), was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 June 2004 in appeal R 447/2002-2;
- order the defendant to pay the costs.

Mark or sign cited in opposition: German word and figurative marks Bit, BIT and Bitte ein Bit for goods and services in Classes 16, 18, 20, 21, 24, 25, 28, 32, 34 and 42 (inter alia beer and non-alcoholic drinks)

Decision of the Opposition Division: Opposition rejected

Decision of the Board of Appeal: Applicant's appeal dismissed

Pleas in law:

- There is considerable aural similarity between the marks
- Article 8(1)(b) of Regulation (EC) No 40/94 was applied incorrectly
- The BIT marks with earlier priority enjoy extended protection under Article 8(5) of the regulation

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**Action brought on 24 August 2004 by Bitburger Brauerei Th. Simon GmbH against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)**

(Case T-352/04)

(2005/C 19/56)

(Language in which the application was submitted: German)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 24 August 2004 by Bitburger Brauerei Th. Simon GmbH, of Bitburg (Germany), represented by Michaela Huth-Dierig, lawyer. Anheuser-Busch, Inc., of St Louis (United States of America), was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 June 2004 in appeal R 451/2002-2;
- order the defendant to pay the costs.

*Pleas in law and main arguments:*

Applicant for Community trade mark: Anheuser-Busch, Inc.

Community trade mark sought: Figurative mark Anheuser Busch Bud for goods in Classes 16, 25 and 32 (inter alia paper, clothing, beer, ale, porter, malted alcoholic and non-alcoholic beverages) – Application No 398 867

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

Mark or sign cited in opposition: German word and figurative marks Bit, BIT and Bitte ein Bit for goods and services in Classes 16, 18, 20, 21, 24, 25, 28, 32, 34 and 42 (inter alia beer and non-alcoholic drinks)

Decision of the Opposition Division: Opposition rejected

Decision of the Board of Appeal: Applicant's appeal dismissed

Pleas in law:

- There is considerable aural similarity between the marks
- Article 8(1)(b) of Regulation (EC) No 40/94 was applied incorrectly
- The BIT marks with earlier priority enjoy extended protection under Article 8(5) of the regulation

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**Action brought on 8 October 2004 by Henkel KGaA against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

(Case T-398/04)

(2005/C 19/57)

(Language of the case: German)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 8 October 2004 by Henkel KGaA, Düsseldorf (Germany), represented by C. Osterrieth, lawyer.