

Pleas in law and main arguments

Community trade mark sought: The word mark 'Telekom Global Net' for goods and services in Classes 9, 16, 35, 36, 38, 39, 41 and 42 (Electric instruments, printed matter, advertising, financial and real estate affairs, telecommunications, transport and storage, education, computer programming...) — Application No 2 168 169.

Decision of the Examiner: Refusal of the application for almost all of the goods and services in Classes 9, 38 and 42.

Decision of the Board of Appeal: Dismissal of the appeal.

Pleas in law:

- The mark applied for displays no descriptive character in relation to the goods and services in Classes 9, 38 and 42 for the purposes of Article 7(1)(c) of Council Regulation (EC) No 40/94.
- The mark applied for has sufficient distinctive character within the meaning of Article 7(1)(b) of Regulation (EC) No 40/94.

Action brought on 24 February 2005 by Omega, S.A. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-90/05)

(2005/C 115/46)

(Language in which the application was lodged: English)

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 February 2005 by Omega, S.A., established in Bienne (Switzerland) represented by P. González-Bueno Catalán de Ocon.

Omega Engineering, Inc., established in Stamford, Connecticut (USA) 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 dated 10 December 2004 in case R 330/2002-2;

— Order that the Office shall bear the costs.

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Applicant for Community trade mark: The applicant

Community trade mark concerned: Figurative mark OMEGA for goods and services in classes 3, 9, 14, 16, 25, 28, 35, 37, 38, 41 and 42 application No 225 771

Proprietor of mark or sign cited in the opposition proceedings: Omega Engineering Inc.

Trade mark or sign cited in opposition: National word and figurative marks OMEGA, MICROMEGA, OMEGA.COM, OMEGASOFT, OMEGANET for goods in classes 1, 2, 6, 7, 8, 9, 11, 14, 16, 17, 18, 35, 41, and 42

Decision of the Opposition Division: Refusal of registration for goods and services in classes 9 and 42

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Misapplication of Article 8(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾

⁽¹⁾ Council Regulation (EC) No 40/94 of 20.12.1993 on the Community trade mark (OJ L 11, p. 1).