

Pleas in law: Infringement of Article 59 of Regulation (EC) No 40/94 ⁽¹⁾ and Rules 48, 49 and 96 of Regulation (EC) No 2868/95 ⁽²⁾, infringement of Article 78 and Article 78a of Regulation No 40/94 and infringement of the principle by which OHIM is bound by its own decisions and the principle of proportionality.

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

⁽²⁾ Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

Action brought on 17 August 2006 — PTV v OHIM (map&guide travelbook)

(Case T-219/06)

(2006/C 237/23)

Language of the case: German

Parties

Applicant: PTV Planung Transport Verkehr AG (Karlsruhe, Germany) (represented by F. Nielsen, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Forms of order sought

— set aside the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market of 8 June 2006 (Appeal case number: R 1174/2005-1);

— order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'map&guide travelbook' for goods and services in Classes 9, 16 and 42.

Decision of the Examiner: Partial dismissal of the application.

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

Pleas in law: The mark applied for does have distinctive character for the purposes of Article 7(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾.

⁽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 18 August 2006 — Hipp & Co v OHMI — Laboratorios Ordesa (BEBIMIL)

(Case T-221/06)

(2006/C 237/24)

Language in which the application was lodged: English

Parties

Applicant: Hipp & Co (Kommanditgesellschaft) (Sachseln, Switzerland) (represented by: M. Kinkeldey, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Laboratorios Ordesa S.L. (Sant Boi de Llobregat, Spain)

Form of order sought

— Annulment of the decision of the First Board of Appeal of the Office of Harmonisation in the Internal Market of 2 June 2006 (Case No R571/2005-1),

— order the costs of the proceedings to be borne by the defendant.

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant.

Community trade mark concerned: The community word mark 'BEBIMIL' for goods in classes 5, 29, 30 and 32.

Proprietor of the mark or sign cited in the opposition proceedings: Laboratorios Ordesa S.L.

Mark or sign cited: Community and national word mark 'BLEMIL' for goods in classes 5 and 29, 6 and 32 respectively.