

Form of order sought

- annul the decision of the First Board of Appeal of 7 July 2006, which was notified to the applicant on 17 July 2006;
- order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'RadioCom' for services in Classes 35, 38 and 41 — application no. 3 986 023.

Decision of the Examiner: Rejection of the application.

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

Pleas in law: The mark for which registration is sought is capable of being registered and the grounds for refusal in Article 7(1)(b) and (c) and Article 7(2) of Regulation (EC) No 40/94⁽¹⁾ which the defendant put forward do not preclude registration.

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

Form of order sought

- annul contested decision R1388/2005-4 and order the Office for Harmonisation in the Internal Market to publish Community trade mark application No 2 906 139 for the purpose of its registration;
- order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'HONEYCOMB' for goods in Class 11 — Application No 2 906 139.

Decision of the Examiner: Refusal of the application.

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

Pleas in law: Breach of Article 7(1)(b) and (c) of Regulation (EC) No 40/94⁽¹⁾, because the sign applied for was assessed incorrectly both as a whole and in relation to its individual elements and the assessment of the relevant public was made subject to a clearly exaggerated perception of the public.

⁽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 September 2006 — Neoperl Servisys v OHIM (HONEYCOMB)

(Case T-256/06)

(2006/C 261/55)

Language in which the application was lodged: German

Parties

Applicant: Neoperl Servisys AG (Reinach, Switzerland) (represented by: H. Börjes-Pestalozza, lawyer)

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

Order of the Court of First Instance of 5 September 2006 — Borrekuil v Commission

(Case T-211/99)⁽¹⁾

(2006/C 261/56)

Language of the case: Dutch

The President of the Second Chamber Extended Composition has ordered that the case be removed from the register.

⁽¹⁾ OJ C 6, 8.1.2000.