

Action brought on 7 February 2007 — Goncharov v OHIM — DSB (DSBW)

(Case T-34/07)

(2007/C 82/92)

Language in which the application was lodged: German

Parties

Applicant: Karen Goncharov (Moscow, Russian Federation) (represented by: G. Hasselblatt und A. Späth, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: DSB (Copenhagen, Denmark)

Form of order sought

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trademarks and Designs) (OHIM) of 4 December 2006 (Case R 1330/2005-2);
- Order OHIM to pay its own costs and those of the applicant;
- Order DSB, should it intervene in the proceedings, to pay its own costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Karen Goncharov.

Community trade mark concerned: The word mark DSBW for services in Classes 39, 41, 43 and 44 (Application No 2 852 143).

Proprietor of the mark or sign cited in the opposition proceedings: DSB

Mark or sign cited in opposition: The word mark DSB (Community trade mark No 2 292 290) for services in Classes 35-37, 39, 41 and 42, whereas the opposition was directed against registration in Classes 39, 41 and 43.

Decision of the Opposition Division: Rejection of Opposition.

Decision of the Board of Appeal: Annulment of the contested decision and grant of the appeal.

Pleas in law: The Board of Appeal wrongly finds that the registration of the mark DSBW is precluded by Article 8(1) (b) of Regulation 40/94; ⁽¹⁾ there is no likelihood of confusion between the opposing marks.

⁽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 12 February 2007 — Leche Celta, S.L. v OHIM

(Case T-35/07)

(2007/C 82/93)

Language in which the application was lodged: Spanish

Parties

Applicant: Leche Celta, S.L. (Puentedeume, La Coruna, Spain) (represented by: J.A. Calderón Chavero, T. Villate Consonni and A. Yanez Manglano, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Celia, SA

Form of order sought

- The annulment of the decision of the 1st Board of Appeal of OHIM issued on 5 December 2006 in case R-294/2006-4
- Consequently, the annulment of that part of the decision of 21 December 2005 in proceedings B657132 which rejects the objection lodged on behalf of the applicant, and allows the application for the contested mark within class 29 for milk and milk products, edible oils and fats
- Granting of the claim of the applicant, and an order that Opposition Division reject the registration of the relevant mark in these specific products
- If OHIM defends the action, an order for costs against it in the present proceedings; and dismissal of its claims

Pleas in law and main arguments

Applicant for a Community trade mark: Celia, SA

Community trade mark concerned: Figurative mark 'Celia' for products and services within classes 16, 29 and 38 (application No. 2.977.221)

Proprietor of the mark or sign cited in the opposition proceedings: Applicant

Mark or sign cited in opposition: National word mark 'CELTA' for products within class 29

Decision of the Opposition Division: Rejection of the objection

Decision of the Board of Appeal: Rejection of the appeal