

Community trade mark concerned: The figurative Community trade-mark 'tosca de FEDEOLIVA' for goods and services in classes 16, 29, 35 and 39 Application No 3 467 651

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

Mark or sign cited: The community and national word marks 'TOSCA' for goods and services in class 3 (perfumeries, essential oils, non-medicated toilet preparations and cosmetics, preparations for hair, toothpastes, toilet soaps)

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b), 8(2)(c) and 8(5) of Council Regulation (EC) No 40/94 ('CTMR') and of the essential procedural requirements enshrined in Articles 43(1), 73 and 74 (1)(2) of the CTMR.

Action brought on 2 March 2007 — Agencja Wydawnicza Technopol v OHIM — ('350')

(Case T-64/07)

(2007/C 95/102)

Language of the case: Polish

Parties

Applicant: Agencja Wydawnicza Technopol, Sp. z o. o. (Częstochowa, Republic of Poland) (represented by: D. Rzażewska, lawyer)

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

Form of order sought

— set aside in its entirety the decision delivered on 21 December 2006 by the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) in Case No R 1033/2006-4;

— order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark concerned: word mark '350' for goods in Class 16

Decision of the Examiner: registration refused

Decision of the Board of Appeal: appeal dismissed

Pleas in law: incorrect application of the provisions of Article 7 (1)(b) and (c) of Regulation No 40/94 on the Community trade

mark ⁽¹⁾, inasmuch as, according to the applicant, the designation '350', in relation to the goods indicated, is neither descriptive nor devoid of distinctive character.

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

Action brought on 2 March 2007 — Agencja Wydawnicza Technopol v OHIM — ('250')

(Case T-65/07)

(2007/C 95/103)

Language of the case: Polish

Parties

Applicant: Agencja Wydawnicza Technopol, Sp. z o. o. (Częstochowa, Republic of Poland) (represented by: D. Rzażewska, lawyer)

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

Form of order sought

— set aside in its entirety the decision delivered on 21 December 2006 by the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) in Case No R 1034/2006-4;

— order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark concerned: word mark '250' for goods in Class 16

Decision of the Examiner: registration refused

Decision of the Board of Appeal: appeal dismissed

Pleas in law: incorrect application of the provisions of Article 7 (1)(b) and (c) of Regulation No 40/94 on the Community trade mark ⁽¹⁾, inasmuch as, according to the applicant, the designation '250', in relation to the goods indicated, is neither descriptive nor devoid of distinctive character.

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