

- In the alternative, annul the contested decision and refer the case back to the Office for Harmonisation in the Internal Market;
- Order the Office for Harmonisation in the Internal Market to pay the costs of the appeal proceedings and of the proceedings before the Court of First Instance.

Pleas in law and main arguments

Applicant for a Community trade mark: Sony Computer Entertainment Europe Limited

Community trade mark concerned: the figurative mark 'BUZZ!' for goods and services in classes 9, 16, 28 and 41 (Application No 4 441 044).

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

Mark or sign cited in opposition: Austrian word mark 'BUZZ!' for goods and services in classes 9, 16, 35 and 38.

Decision of the Opposition Division: rejection of the opposition.

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

Pleas in law: Infringement of Article 74(2) of Regulation (EC) No 40/94 ⁽¹⁾ caused by disregard of evidence of the existence of the mark on which opposition is based.

⁽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 7 August 2007 — Nölle v OHIM — Viña Carta Vieja (Puzzle)

(Case T-303/07)

(2007/C 235/42)

Language in which the application was lodged: German

Parties

Applicant: Jürgen Nölle (Rheinberg, Germany) (represented by: J. Reinartz, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Viña Carta Vieja S.A.

Form of order sought

- Reject in its entirety the opposition of 24 February 2005 brought by Viña Carta Vieja S.A. against the trade mark

application made by the applicant on 20 February 2004 in relation to the word mark 'Puzzle', and in so doing annul the decision of the Second Board of Appeal of 5 June 2007 in Case R 911/2006-2 and the decision of the Opposition Division of 29 June 2006 No B 802 340;

- Order the defendant to pay the costs of the proceedings including the costs incurred by any intervening party.

Pleas in law and main arguments

Applicant for a Community trade mark: The Applicant

Community trade mark concerned: The word mark 'Puzzle' for goods in classes 16, 32 and 33 (Application No 3 674 651).

Proprietor of the mark or sign cited in the opposition proceedings: Viña Carta Vieja S.A.

Mark or sign cited in opposition: In particular the word mark 'MONKEY PUZZLE' for goods in class 33 (Community trade mark No 3 238 144).

Decision of the Opposition Division: partial grant of the opposition.

Decision of the Board of Appeal: annulment of the decision of the Opposition Division, to the extent that it granted the opposition for goods in class 32.

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾, because there is no likelihood of confusion between the opposing trade marks.

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

Action brought on 10 August 2007 — Calzaturificio Frau v OHIM — Camper

(Case T-304/07)

(2007/C 235/43)

Language in which the application was lodged: Italian

Parties

Applicant: Calzaturificio Frau SpA (San Giovanni Ilarione VR, Italy) (represented by: A. Rizzoli, lawyer)

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

Other part to the proceedings before the Board of Appeal of OHIM: Camper S.L.