

Mark or sign cited: The national trade name 'Olive lines' for the activities of a business dedicated to being a trade intermediary

Decision of the Opposition Division: Rejection of the opposition in its entirety

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Violation of Article 8(1)(b) and (4) of Council Regulation No 40/94, as there is a risk of confusion between the earlier non-registered trade mark, which has more than just a local significance, and the trade mark applied for.

Mark or sign cited: The Community word and figurative marks 'KA' for goods and services in classes 9, 12, 14, 16, 18, 20, 21, 27, 32 and 37

Decision of the Opposition Division: Rejection of the opposition in its entirety

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 40/94, as there is a likelihood of confusion between the conflicting trade marks due to the phonetic and visual similarity between 'KA' and 'CA', the identity of the goods and the enhanced distinctiveness of the earlier marks.

Action brought on 21 December 2007 — Ford Motor v OHIM — Alkar Automotive (CA)

(Case T-486/07)

(2008/C 51/105)

Language in which the application was lodged: English

Parties

Applicant: Ford Motor Co. (Dearborn, United States) (represented by: R. Ingerl, lawyer)

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

Other party to the proceedings before the Board of Appeal: Alkar Automotive SA (Derio, Spain)

Form of order sought

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 25 October 2007 (Case R 85/2006-4);
- annul the decision of the Opposition Division of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 November 2005 (Opposition No B 684052);
- order OHIM to pay the costs incurred by the applicant.

Pleas in law and main arguments

Applicant for the Community trade mark: Alkar Automotive SA

Community trade mark concerned: The figurative mark 'CA' for, *inter alia*, goods in classes 9, 11 and 12 — application No 3 186 764

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

Action brought on 21 December 2007 — Imperial Chemical Industries v OHIM (FACTORY FINISH)

(Case T-487/07)

(2008/C 51/106)

Language of the case: English

Parties

Applicant: Imperial Chemical Industries (ICI) plc (London, United Kingdom) (represented by: S. Malynicz, Barrister)

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

Form of order sought

- The decision of the Fourth Board of Appeal dated 24 October 2007 in Case R 668/2007-4 shall be annulled.
- The Office shall bear its own costs and pay those of the applicant.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'FACTORY FINISH' for goods in class 2 — application No 4 538 518

Decision of the examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Violation of Article 7(1)(c) of Council Regulation No 40/94, as 'FACTORY FINISH' is not descriptive, but an unusual juxtaposition of words resulting in a lexical invention, and violation of Article 7(1)(b) of Council Regulation No 40/94, as the mark applied for is not devoid of distinctive character.
