

Form of order sought

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market of 12 December 2007 (Case R 1405/2007-4);
- order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Three-dimensional mark depicting tweezers, for goods in class 8 (application No 5 480 108).

Decision of the Examiner: Registration refused.

Decision of the Board of Appeal: Appeal dismissed.

Pleas in law: Infringement of Article 7(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾, as the mark applied for has the requisite distinctive character.

⁽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 19 February 2008 — CureVac v OHIM — Qiagen (RNAiFect)

(Case T-80/08)

(2008/C 107/57)

Language in which the application was lodged: German

Parties

Applicant: CureVac GmbH (Tübingen, Germany) (represented by: F. von Stosch, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Qiagen GmbH (Hilden, Germany)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 11 December 2007 in Case R 1219/2006-1 relating to Opposition No B 771 495;
- Refuse registration of Community trade mark No 3 304 813

- Order OHIM to pay the costs

Pleas in law and main arguments

Applicant for a Community trade mark: Qiagen GmbH

Community trade mark concerned: The word mark 'RNAiFect' for goods in Classes 1, 5 and 9 (Application No 3 304 813)

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

Mark or sign cited in opposition: the word mark 'RNAActive' for goods in Classes 1 and 5 (Community trade mark No 2 953 768), albeit that the opposition was brought against registration in respect of certain goods in Classes 1 and 5

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 8(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾ as there is a likelihood of confusion between the opposing marks due to the identity of the goods and the similarity of the 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 18 February 2008 — Enercon v OHIM (E-ship)

(Case T-81/08)

(2008/C 107/58)

Language in which the application was lodged: German

Parties

Applicant: Enercon GmbH (Aurich, Germany) (represented by R. Böhm, lawyer)

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

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 December 2007 (Case R 319/2007-1);
- order the defendant to pay the costs.