

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

Other party to the proceedings before the Board of Appeal: José Dias Magalhães & Filhos Lda (Arrifana, Portugal)

Form of order sought

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 28 July 2008 in case R 1864/2007-2, as far as it dismissed the appeal of the applicant; and
- Order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The word mark 'GIORDANO' for goods in classes 18 and 25

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited: Portuguese trade mark registration No 322 534 of the word mark 'GIORDANO' for goods in class 25

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Annulled the decision of the Opposition Division to the extent that it upheld the opposition for certain goods in class 18 and dismissed the appeal for the remainder

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 40/94 as the Board of Appeal erred in its finding that there is a likelihood of confusion between the trade marks concerned; Infringement of Article 42 of Council Regulation No 40/94 as well as Rule 15 of Commission Regulation No 2868/95 ⁽¹⁾ as the Board of Appeal wrongly rendered a decision pursuant to Article 8(1)(a) of Council Regulation No 40/94 while the other party to the proceedings before the Board of Appeal based its opposition only on Article 8(1)(b) of Council Regulation 40/94.

⁽¹⁾ Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

Appeal brought on 13 November 2008 by Paul Lafili against the judgment of the Civil Service Tribunal delivered on 4 September 2008 in Case F-22/07 Lafili v Commission

(Case T-485/08 P)

(2009/C 19/59)

Language of the case: French

Parties

Appellant: Paul Lafili (Genk, Belgium) (represented by: L. Levi, lawyer)

Other party to the proceedings: Commission of the European Communities

Form of order sought by the appellant

The appellant claims the Court should:

- annul the judgment of the Civil Service Tribunal of the European Union of 4 September 2008 in Case F-22/07 in so far as it rejected the pleas in law alleging infringement of Articles 44 and 46 of the Staff Regulations and Article 7 of Annex XIII to the Staff Regulations and an infringement of the principle of legitimate expectations;
- consequently, allow the appellant's claims at first instance and, therefore,
 - the annulment of the decision to classify the appellant in Grade AD 13, step 5, contained in a note of DG ADMIN of 11 May 2006 and in the appellant's salary slip of June 2006 and in his subsequent salary slips;
 - leading to:
 - the reinstatement, with effect from 1 May 2006, of the applicant in grade AD 13, step 2, retaining the multiplication factor 1.1172071;
 - the full restructuring of the appellant's career with retroactive effect from 1 May 2006 to the date of his classification in grade and step as thus corrected (including the valuation of his experience in his classification as thus corrected, his rights of advancement to a higher step and his pension rights), which includes the payment of default interest at the base rate fixed by the European Central Bank for its main refinancing operations, applicable during the period concerned, increased by two points, on the total sum of the difference between the remuneration for his classification as set out in the classification decision and the classification to which he should have been entitled until the date on which the decision on his corrected classification is taken;
 - the order that the Commission is to pay all the costs;
- order the defendant to pay all the costs at first instance and of the appeal.

Pleas in law and main arguments

By this appeal, the appellant is seeking the annulment of the judgment of the Civil Service Tribunal (CST) of 4 September 2008, given in Case F-22/07 *Lafili v Commission*, by which the CST annulled the decision of the Head of Unit A6 'Career structure, evaluation and promotion' in the 'Personnel and Administration' General-Directorate of the Commission of the European Communities of 11 May 2006, in so far as the judgment under appeal rejects the appellant's pleas in law alleging infringement of Articles 44 and 46 of the Staff Regulations of Officials of the European Communities ('the Staff Regulations') and Article 7 of Annex XIII to the Staff Regulations and an infringement of the principle of legitimate expectations.

In support of his appeal, the appellant raised a single plea alleging the infringement, at first instance, of Articles 44 and 46 of the Staff Regulations, of Article 7 of Annex XIII to the Staff Regulations, the infringement of the principles of interpretation of Community law and of the obligation to state reasons, and a distortion of the evidence.

Action brought on 17 November 2008 — Kureha v OHIM — Sanofi-Aventis (KREMEZIN)

(Case T-487/08)

(2009/C 19/60)

*Language in which the application was lodged: English***Parties**

Applicant: Kureha Corp. (Tokyo, Japan) (represented by: W. von der Osten-Sacken and O. Sude, lawyers)

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

Other party to the proceedings before the Board of Appeal: Sanofi-Aventis SA (Gentilly, France)

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 15 September 2008 in case R 1631/2007-4; and

— Order the other party to the proceedings before the Board of Appeal to pay the costs.

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The word mark 'KREMEZIN' for goods in class 5 — application No 2 906 501

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited: International trade mark registration No 529 937 of the word mark 'KRENOSIN' for goods in class 5

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

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Rule 19 and of Rule 20(1) of Commission Regulation No 2868/95 ⁽¹⁾, as well as misuse of power, as the Board of Appeal wrongly considered that the other party to the proceedings before it has sufficiently proven the existence and validity of the earlier trade mark; Infringement of Article 8(1)(b) in connection with Article 43(2) and (3) of Council Regulation No 40/94 as the Board of Appeal erred in its finding that there is a likelihood of confusion between the trade marks concerned.

⁽¹⁾ Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

Action brought on 14 November 2008 — Galileo International Technology v OHIM — GALILEO SISTEMAS Y SERVICIOS (GSS GALILEO SISTEMAS Y SERVICIOS)

(Case T-488/08)

(2009/C 19/61)

*Language in which the application was lodged: English***Parties**

Applicant: Galileo International Technology LLC (Bridgetown, Barbados) (represented by: S. Malynicz, Barrister, K. Gilbert and M. Blair, Solicitors)

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

Other party to the proceedings before the Board of Appeal: Galileo Sistemas y Servicios, SL (Tres Cantos, Spain)