

Judgment of the Court of First Instance of 16 December 2008 — Deichmann-Schuhe v OHIM — Design for Woman (DEITECH)

(Case T-86/07) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for a figurative Community trade mark DEITECH — Earlier national and international figurative trade marks DEI-tex — Relative grounds for refusal — Genuine use of the earlier mark — Article 43(2) and (3) of Regulation (EC) No 40/94)

(2009/C 32/55)

Language in which the application was lodged: German

Parties

Applicant: Heinrich Deichmann-Schuhe GmbH & Co. KG (Essen, Germany) (initially represented by O. Rauscher, lawyer, then by O. Rauscher and A. Schulz, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: R. Pethke, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Design for Woman SA (Bogotá, Colombia)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 22 January 2007 (case number R 791/2006-2) relating to opposition proceedings between Heinrich Deichmann-Schuhe GmbH & Co. KG and Design for Woman SA.

Operative part of the judgment

The Court:

1. Partially annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 January 2007 (case number R 791/2006-2) in so far as it finds that genuine use of the earlier marks has not been proven in respect of 'shoes' in Class 25 covered by the application for a Community trade mark;
2. Dismisses the remainder of the action;
3. Orders OHIM to pay the costs.

⁽¹⁾ OJ C 117, 26.5.2007.

Judgment of the Court of First Instance of 10 December 2008 — Dada v OHIM

(Case T-101/07) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for a figurative Community trade mark DADA — Earlier national word mark DADA — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 — Genuine use of the earlier trade mark — Article 43(2) and (3) of Regulation (EC) No 40/94)

(2009/C 32/56)

Language of the case: Italian

Parties

Applicant: Dada SpA (Florence, Italy) (represented by: D. Caneva and G. Locurto, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Sempio, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Dada Srl (Udine, Italy) (represented by: M. Cartella and M. Fazzini, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 12 January 2007 (Case R 1342/2005-1) relating to opposition proceedings between Dada Srl and Dada SpA.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Dada SpA to pay the costs.

⁽¹⁾ OJ C 129, 9.6.2007.