

— In the alternative, annul the contested decision of OHIM of 3 September 2008 and refer the trade mark application No 003 317 591 in respect of a reduced list of goods back to OHIM to allow for the registration process to continue, and order OHIM to bear all the costs associated with the case, in particular including those incurred before the Board of Appeal.

Pleas in law and main arguments

Community trade mark concerned: the three-dimensional mark 'BECHER RUND' in respect of goods in Classes 16, 17 and 20 (Application No 3 317 591).

Decision of the Examiner: Rejection of the application.

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

Pleas in law: Infringement of Article 7(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾ in that the trade mark applied for has the necessary minimum distinctive character.

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

Action brought on 21 November 2008 — Mologen v OHIM (dSLIM)

(Case T-504/08)

(2009/C 44/86)

Language of the case: German

Parties

Applicant: Mologen AG (Berlin, Germany) (represented by C. Klages, lawyer)

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

Form of order sought

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market of 17 September 2008 in Case R 1077/2007-4;

— order the Office for Harmonisation in the Internal Market to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'dSLIM' for goods and services in classes 1, 5, 10, 42 and 44 (Application No 5 355 136).

Decision of the Examiner: Rejection of the application.

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

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation (EC) No 40/94 ⁽¹⁾, in that the sign neither lacks distinctive character nor involves a descriptive indication.

⁽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 25 November 2008 — Nadine Trautwein Rolf Trautwein v OHIM (Hunter)

(Case T-505/08)

(2009/C 44/87)

Language of the case: German

Parties

Applicant: Nadine Trautwein Rolf Trautwein GbR, Research and Development (Leopoldshöhe, Germany) (represented by C. Czychowski, 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 17 September 2008 in Case R 1733/2007-1, as well as the decision of the examiner of 17 October 2007 and admit Community trade mark application No 4829347 for publication; and

— order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'Hunter' for goods in classes 18 and 25 (Application No 4 829 347)

Decision of the Examiner: Rejection of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation (EC) No 40/94 ⁽¹⁾, in that the trade mark neither can be denied the necessary distinctive character nor involves a descriptive indication.

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