

Decision of the Opposition Division: Opposition upheld in part.

Decision of the Board of Appeal: Action brought by the trade mark applicant upheld.

Pleas in law: Infringement of Article 8(1)(b) and of Articles 73 and 74 of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark.

Action brought on 3 February 2009 — Cachuera v OHIM — Gelkaps (Ayanda)

(Case T-43/09)

(2009/C 69/115)

Language in which the application was lodged: Spanish

Parties

Applicant: La Cachuera SA (Misiones, Argentina) (represented by: E. Armijo Chávarri, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Gelkaps GmbH (Pritzwalk, Germany).

Form of order sought

— Declare the action against the Decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 19 November 2008 lodged in time and in the required form and, via the appropriate procedure, order the annulment of that decision and order expressly that OHIM pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Gelkaps GmbH.

Community trade mark concerned: Word mark 'AYANDA' (Application No 3.315.405) for goods and services in Classes 3, 5, 28, 29, 30, 32 and 44.

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

Mark or sign cited in opposition: Spanish figurative and word marks 'AMANDA', for goods in Class 30.

Decision of the Opposition Division: Opposition upheld in part.

Decision of the Board of Appeal: Appeal dismissed.

Pleas in law: Incorrect application of Article 8(1)(b) of Regulation (EC) No 40/94 on the Community trade mark.

Order of the Court of First Instance of 16 January 2009 — Italy v Commission

(Case T-431/04) ⁽¹⁾

(2009/C 69/116)

Language of the case: Italian

The President of the Seventh Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 314, 18.12.2004.

Order of the Court of First Instance of 15 January 2009 — Commission v Banca di Roma

(Case T-261/07) ⁽¹⁾

(2009/C 69/117)

Language of the case: Italian

The President of the Fourth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 211, 8.9.2007.

Order of the Court of First Instance of 3 February 2009 — Comtec Translations v Commission

(Case T-239/08) ⁽¹⁾

(2009/C 69/118)

Language of the case: English

The President of the Eighth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 209, 15.8.2008.