

Pleas in law and main arguments

Applicant for a Community trade mark: Centum Aqua Marketing GmbH

Community trade mark concerned: the word mark 'HUNDERTWASSER' for goods and services in Classes 20, 25, 30, 31, 32, 35, 39 and 42 (application No 4 491 891)

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

Mark or sign cited in opposition: the word mark 'FRIEDENSREICH HUNDERTWASSER' for goods and services in Classes 3, 16, 19, 24, 25, 27, 32 and 33 (Community trade mark No 1 825 629) and the word mark 'HUNDERTWASSER' for goods and services in Classes 14, 16, 18, 19, 21, 24, 41 and 42 (Community trade mark No 1 931 393)

Decision of the Opposition Division: partial rejection of the opposition

Decision of the Board of Appeal: annulment of the Opposition Division's decision and partial upholding of the appeal as well as partial rejection of the application

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 40/94 as there is a likelihood of confusion between the marks at issue

Action brought on 24 March 2009 — Italy v Commission

(Case T-126/09)

(2009/C 129/31)

Language of the case: Italian

Parties

Applicant: Italian Republic (represented by: P. Gentili, avvocato dello Stato)

Defendant: Commission of the European Communities

Form of order sought

— Annulment of Notices of open competitions EPSO/AD/144/09 (public health), EPSO/AD/145/09 (food safety (policy and legislation)), and EPSO/AD/146/09 (food safety (audit, inspection and evaluation)) for the drawing up of a reserve from which to recruit 35, 40 and 55 administrators (AD 5) respectively, with Bulgarian, Cypriot, Czech, Estonian, Hungarian, Latvian, Lithuanian, Maltese, Polish, Romanian, Slovak and Slovenian citizenship, in the field of public health.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those in Case T-166/07 *Italy v Commission*.

Action brought on 2 April 2009 — Farmeco v OHIM — Allergan (BOTUMAX)

(Case T-131/09)

(2009/C 129/32)

Language in which the application was lodged: English

Parties

Applicants: Farmeco SA Dermocosmetics, trading as "Farmeco SA" (Athens, Greece) (represented by: N. Lyberis, lawyer)

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

Other party to the proceedings before the Board of Appeal: Allergan, Inc. (Irvine, United States)

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 2 February 2009 in case R 60/2008-4, to the extent that the application for the Community trade mark concerned was rejected for all goods in classes 3 and 5 and certain goods in class 16;
- Dismiss the appeal filed by the other party to the proceedings before the Board of Appeal against the decision of 26 October 2007 of the Opposition Division and allow the Community trade mark concerned to proceed to registration for all goods applied for; and
- Order OHIM and the other party to the proceedings before the Board of Appeal to pay the costs, including those incurred in opposition and appeal proceedings.

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The word mark "BOTUMAX", for goods in classes 3, 5 and 16 — application No 3 218 237

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: Various Community and national trade mark registrations of the word mark or the sign "BOTOX" for goods and services in classes 5, 16, and 42, respectively

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Annulled the contested decision and rejected partially the application for the Community trade mark concerned