

**Judgment of the Court of First Instance of 7 May 2009 — NHL Enterprises v OHIM — Glory & Pompea (LA KINGS)**(Case T-414/05) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for the Community figurative mark LA KINGS — Earlier national figurative mark KING — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)*

(2009/C 153/64)

Language of the case: English

**Parties**

*Applicant:* NHL Enterprises BV (Rijswijk, Netherlands) (represented initially by G. Llewelyn, Solicitor, and V. Barresi, lawyer, and subsequently by M. Collins, Solicitor)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Novais Gonçalves and D. Botis, Agents)

*Other party to the proceedings before the Board of Appeal of OHIM:* Glory & Pompea, SA (Mataró, Spain)

**Re:**

ACTION brought against the decision of the Fourth Board of Appeal of OHIM of 6 July 2005 (Case R 371/2003-4), concerning opposition proceedings between Glory & Pompea, SA and NHL Enterprises BV.

**Operative part of the judgment**

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 6 July 2005 (Case R 371/2003-4);
2. Orders OHIM to bear its own costs and to pay those incurred by NHL Enterprises BV.

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<sup>(1)</sup> OJ C 36, 11.2.2006.

**Judgment of the Court of First Instance of 14 May 2009 — Fiorucci v OHIM — Edwin (ELIO FIORUCCI)**(Case T-165/06) <sup>(1)</sup>

*(Community trade mark — Invalidity and revocation proceedings — Community word mark ELIO FIORUCCI — Registration of the name of a well-known person as a trade mark — Article 52(2)(a) and Article 50(1)(c) of Regulation (EC) No 40/94)*

(2009/C 153/65)

Language of the case: Italian

**Parties**

*Applicant:* Elio Fiorucci (Milan, Italy) (represented by: A. Vanzetti, G. Sironi and F. Rossi, Lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: O. Montalto and L. Rampini, Agents)

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance:* Edwin Co. Ltd (Tokyo, Japan) (represented by: D. Rigatti, M. Bertani, S. Vereá, K. Muraro and M. Balestrieri, Lawyers)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 6 April 2006 (Decision R 238/2005-1) concerning invalidity and revocation proceedings between Mr Elio Fiorucci and Edwin Co. Ltd.

**Operative part of the judgment**

The Court:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 6 April 2006 (Case R 238/2005-1) in so far as it contains an error of law in the interpretation of Article 8(3) of the Codice della Proprietà Industriale (Italian Industrial Property Code);
2. Dismisses the action as to the remainder;
3. Orders OHIM to bear its own costs and two thirds of the costs incurred by Mr Elio Fiorucci;
4. Orders Edwin Co. Ltd to pay its own costs and one third of those incurred by Mr Elio Fiorucci.

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<sup>(1)</sup> OJ C 190, 12.8.2006.