

Judgment of the Court of First Instance of 11 November 2009 — REWE-Zentral v OHIM — Aldi Einkauf (Clina)

(Case T-150/08) ⁽¹⁾

(Community trade mark — Opposition Proceedings — Application for the Community word mark Clina — Earlier Community word mark CLINAIR — Relative ground of refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009))

(2009/C 312/45)

Language of the case: German

Parties

Applicant: REWE-Zentral AG (Cologne, Germany) (represented by: M. Kinkeldey, A. Bogán and S. Schäffler, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Aldi Einkauf GmbH & Co. OHG (Essen, Germany) (represented by: N. Lützenrath, U. Rademacher, L. Kolks and C. Fürsen, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 15 February 2008 (Case R 1484/2006-4) concerning opposition proceedings between Aldi Einkauf GmbH & Co. OHG and REWE-Zentral AG.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders REWE-Zentral AG to pay the costs.

⁽¹⁾ OJ C 158, of 21.6.2008.

Judgment of the Court of First Instance of 11 November 2009 — Frag Comercio Internacional v OHIM — Tinkerbelle Modas (GREEN by missako)

(Case T-162/08) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark GREEN by missako — Earlier national and Community figurative marks MI SA KO — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009))

(2009/C 312/46)

Language of the case: English

Parties

Applicant: Frag Comercio Internacional, SL (Esparreguera, Spain) (represented by: E. Sagrañes Coca, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: W. Verburg, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Tinkerbelle Modas LTDA (São Paulo, Brazil)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 14 February 2008 (Case R 1527/2006-2) relating to opposition proceedings between Tinkerbelle Modas LTDA and Frag Comercio Internacional, SL

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Frag Comercio Internacional, SL, to pay the costs.

⁽¹⁾ OJ C 171, 5.7.2008.