

Action brought on 29 January 2010 — El Corte Inglés v OHIM — Pucci International (PUCCI)

(Case T-39/10)

(2010/C 100/74)

Language in which the application was lodged: English

Parties

Applicant: El Corte Inglés, S.A. (Madrid, Spain) (represented by: M. López Camba, J. Rivas Zurdo and E. Seijo Veiguera, lawyers)

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

Other party to the proceedings before the Board of Appeal: Emilio Pucci International B.V. (Baarn, The Netherlands)

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 29 October 2009 in case R 173/2009-1;
- Order the defendant to pay the costs incurred by the applicant;
- Order the other party to the proceedings before the Board of Appeal to pay the costs incurred by the applicant.

Pleas in law and main arguments

Applicant for the Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark “PUCCI”, for goods in classes 3, 9, 14, 18, 25 and 28

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

Mark or sign cited: Spanish trade mark registrations of the figurative mark ‘Emidio Tucci’, for goods in classes 3, 9, 14, 25 and 28; Spanish trade mark registration of the word mark ‘E. Tucci’, for goods in class 25; Community trade mark application for the figurative mark ‘Emidio Tucci’, covering *inter alia* goods in classes 3, 9, 14, 25 and 28.

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009 as the Board of Appeal wrongly found that there was no likelihood of confusion between the trade marks concerned; infringement of Article 8(5) of Council Regulation No 207/2009 as the Board of Appeal failed to conclude that the conditions for the application of this provision are fulfilled, as the earlier trade marks enjoy reputation in Spain in respect of articles related to fashion and the use of a similar sign by a third party would be detrimental to and take unfair advantage of such a reputation.

Action brought on 29 January 2010 — Elf Aquitaine v Commission

(Case T-40/10)

(2010/C 100/75)

Language of the case: French

Parties

Applicant: Elf Aquitaine SA (Courbevoie, France) (represented by: É. Morgan de Rivery, S. Thibault-Liger and A. Noël-Baron, lawyers)

Defendant: European Commission

Form of order sought

- annul, on the basis of Article 263 of the Treaty on the Functioning of the European Union (TFEU), the whole of [Commission] Decision No C(2009) 8682 final of 11 November 2009 in Case COMP/38589 — Heat Stabilisers in so far as it concerns Elf Aquitaine;
- in the alternative, annul, on the basis of Article 263 TFEU:
 - Article 2(11), (13), (28) and (30) of Commission’ Decision No C(2009) 8682 final of 11 November 2009 inasmuch as it imposes i) two fines of EUR 3 864 000 and EUR 7 154 000 jointly and severally on Arkema France, CECA and Elf Aquitaine and ii) two fines of EUR 2 704 800 and EUR 5 007 800 on Elf Aquitaine alone; and