

Pleas in law and main arguments

Applicant for a Community trade mark: DIMA — TEKSTIL DERI INSAAT MADEM TURIZM ORMAN URÜNLERE SANAYI VE TICARET LTD. STI.

Community trade mark concerned: Word mark 'KARRA' for goods and services in Classes 3, 9, 18, 20, 24, 25 and 35.

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

Mark or sign cited in opposition: Italian figurative marks 'KARA' (No 765 532, for goods in Class 35, and No 761 972 for goods and services in Classes 18 and 25), Community figurative trade mark No 887 810 ('KARA') for goods in, inter alia, Classes 18 and 25, and the business name of the Italian company 'CONCERIA KARA S.R.L.', the right to the use of which is claimed in relation to the same goods and services for earlier marks.

Decision of the Opposition Division: The opposition was upheld in part.

Decision of the Board of Appeal: The appeal was dismissed.

Pleas in law: Failure to state reasons and misinterpretation and misapplication of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 16 June 2010 — H v Council and Others

(Case T-271/10)

(2010/C 221/88)

Language of the case: English

Parties

Applicant: H (Catania, Italy) (represented by: C. Mereu and M. Velardo, lawyers)

Defendants: Council of the European Union, European Commission and European Union Police Mission in Bosnia and Herzegovina ("EUPM")

Form of order sought

- Annul the Contested Decision of 7 April 2010 and, if needed, the Decision of 30 April 2010;
- Order the defendants to pay the damages suffered by the applicant, assessed at 30 000,00 Euro; and
- Order the defendants to pay the costs of the proceedings, as well as an interest of 8 %.

Pleas in law and main arguments

By means of its application, the applicant seeks, pursuant to Article 263 TFEU, the annulment of the Decision rendered by the European Union Police Mission (EUPM) in Bosnia and Herzegovina of 7 April 2010 and, if necessary, of the subsequent confirmation Decision of 30 April 2010, where it was decided to reassign the applicant from the main headquarters of the Mission in Sarajevo to the Regional Office in Banja Luka, as well as the downgrading of the applicant. Furthermore, the applicant seeks, pursuant to Article 340 TFEU, the award of damages in the amount of 30 000,00 Euro.

The applicant submits that the General Court has jurisdiction to rule in this case following the Order of the Civil Service Tribunal of 9 October 2006 in case F-53/06 *Gualtieri v Commission*.

In support of its submissions, the applicant puts forward the following pleas in law:

Firstly, the applicant claims misuse of powers, as there was no objective reason justifying the redeployment.

Secondly, the applicant claims that the Contested Decision is flawed for lack of motivation, as the European Union Police Mission in Bosnia and Herzegovina did not substantiate the operational reasons underlying the redeployment.

Thirdly, there has been a manifest error of appraisal, as there was no need to urgently redeploy a prosecutor to the Regional Office in Banja Luka.

In addition, there has been an infringement of Council Decision No 2009/906/CFSP of 8 December 2009⁽¹⁾ as the Head of Mission was not entitled to reassign the staff but only to provide the management of the staff on a daily basis.

Finally, the applicant seeks the award of damages due to moral harassment.

Community trade mark concerned: The figurative mark 'O-LIVE', for goods and services in classes 3 and 44 — Community trade mark application No 5715008

(¹) Council Decision 2009/906/CFSP of 8 December 2009 on the European Union Police Mission (EUPM) in Bosnia and Herzegovina (BiH) (OJ 2009 L 322, p. 22).

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

Action brought on 18 June 2010 — Olive Line International v OHIM — O. International (O-LIVE)

(Case T-273/10)

(2010/C 221/89)

Language in which the application was lodged: English

Parties

Applicant: Olive Line International, S.L. (Madrid, Spain) (represented by: P. Koch Moreno, lawyer)

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

Other party to the proceedings before the Board of Appeal: O. International, S.r.l (Spoleto, Italy)

Mark or sign cited: Community trade mark registration No 5086657 of the figurative mark 'Olive Line', for goods in classes 3, 29 and 30; Spanish trade mark registration No 2741533 of the figurative mark 'Olive Line', for goods in classes 3, 29 and 30; Spanish trade mark registration No 2525564 of the word mark 'Olive Line', for goods in class 3

Decision of the Opposition Division: Rejected the opposition

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 assessed that there was not a likelihood of confusion between the concerned trade marks.

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 14 April 2010 in case R 4/2009-4;

— Order the defendant to bear the costs of the proceedings; and

— Order the other party to the proceedings before the Board of Appeal to pay the costs of the proceedings, should it become an intervening party in this case.

Pleas in law and main arguments

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

Action brought on 21 June 2010 — Wesergold Getränkeindustrie v OHIM — Lidl Stiftung (WESTERN GOLD)

(Case T-278/10)

(2010/C 221/90)

Language in which the application was lodged: German

Parties

Applicant: Wesergold Getränkeindustrie GmbH & Co. KG (Rinteln, Germany) (represented by: P. Goldenbaum, I. Rohr und T. Melchert, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Lidl Stiftung & Co. KG (Neckarsulm, Germany)