

4. Orders the European Commission to bear all the costs relating to the present proceedings and those before the Civil Service Tribunal.

(¹) OJ C 102 of 1.5.2009.

Judgment of the General Court of 9 September 2010 — adp Gauselmann v OHIM — Maclean (Archer Maclean's Mercury)

(Case T-106/09) (¹)

(Community trade mark — Opposition proceedings — Application for the Community figurative mark Archer Maclean's Mercury — Earlier national word mark Merkur — Relative ground for refusal — 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)

(2010/C 288/74)

Language of the case: English

Parties

Applicant: adp Gauselmann GmbH (Espelkamp, Germany) (represented by: P. Koch Moreno, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Archer Maclean (Banbury, Oxfordshire, United Kingdom)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 12 January 2009 (Case R 1266/2007-1), relating to opposition proceedings between adp Gauselmann GmbH and Archer Maclean

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders adp Gauselmann GmbH to pay the costs.

(¹) OJ C 113, 16.5.2009.

Judgment of the General Court of 8 September 2010 — Icebreaker v OHIM — Gilmar (ICEBREAKER)

(Case T-112/09) (¹)

(Community trade mark — Opposition proceedings — Application for Community word mark ICEBREAKER — Earlier national word mark ICEBERG — Relative ground for refusal — Likelihood of confusion — Partial refusal to register — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009)

(2010/C 288/75)

Language of the case: English

Parties

Applicant: Icebreaker Ltd (Wellington, New Zealand) (represented by: L. Prehn, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Gilmar SpA (San Giovanni in Marignano, Italy) (represented by: P. Perani and P. Pozzi, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 15 January 2009 (Case R 1536/2007-4) relating to opposition proceedings between Gilmar SpA and Icebreaker Ltd.

Operative part of the judgment

The Court:

1. Dismisses the action;