

Third, the applicant claims that the contested regulation was adopted in breach of the general principle of good and proper administration and/or duty of care as defined by established case law and foreseen in article 41 of the Charter of Fundamental Rights of the European Union.

⁽¹⁾ OJ 2010 L 142, p. 1

⁽²⁾ Commission Regulation (EU) No 508/2010 of 14 June 2010 prohibiting fishing activities for purse seiners flying the flag of or registered in Spain, fishing for bluefin tuna in the Atlantic ocean, east of longitude of 45° W, and in the Mediterranean sea (OJ 2010 L 149, p. 7).

⁽³⁾ Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006, OJ 2009 L 343, p. 1

Action brought on 2 September 2010 — Handicare v OHIM — Apple Corps (BEATLE)

(Case T-369/10)

(2010/C 301/59)

Language in which the application was lodged: English

Parties

Applicant: Handicare Holding BV (Helmond, The Netherlands) (represented by: G. van Roeyen, lawyer)

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

Other party to the proceedings before the Board of Appeal: Apple Corps Ltd (London, United Kingdom)

Form of order sought

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 31 May 2010 in case R 1276/2009-2; and

— Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The figurative mark 'BEATLE', for goods in class 12

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited: United Kingdom trade mark registration No 1341242 of the figurative marks 'BEATLES' and 'THE BEATLES', for goods in class 9; Spanish trade mark registration No 1737191 of the figurative mark 'BEATLES', for goods in class 9; German trade mark registrations No 1148166 and No 2072741 of the figurative marks 'BEATLES', for goods in class 9; Portuguese trade mark registration No 312175 of the figurative mark 'BEATLES', for goods in class 9; French trade mark registration No 1584857 of the figurative mark 'BEATLES', for goods in class 9; Italian trade mark registration No 839105 of the figurative mark 'BEATLES', for goods in class 9; Community trade mark registration No 219048 of the word mark 'BEATLES', for goods in classes 6, 9, 14, 15, 16, 18, 20, 21, 24, 25, 26, 27, 28, 34, and 41; Community trade mark registration No 219014 of the figurative mark 'BEATLES', for goods in classes 6, 9, 14, 15, 16, 18, 20, 21, 24, 25, 26, 27, 28, 34, and 41

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Upheld the appeal and annulled the decision of the Opposition Division

Pleas in law: Infringement of Articles 8(1)(b) and 8(4) of Council Regulation No 207/2009, as the Board of Appeal failed to reject the opposition on these grounds notwithstanding that it established that there is not any real similarity between the concerned products; infringement of Article 8(5) of Council Regulation No 207/2009, as the Board of Appeal erroneously concluded that the conditions for the application of this Article were fulfilled.

Action brought on 3 September 2010 — Bolloré v Commission

(Case T-372/10)

(2010/C 301/60)

Language of the case: French

Parties

Applicant: Bolloré (Ergué-Gabéric, France) (represented by: P. Gassenbach, C. Lemaire and O. de Juvigny, lawyers)

Defendant: European Commission

Form of order sought

— Annul Articles 1 and 2 of Commission Decision C(2010) 4160 final of 23 June 2010 relating to a proceeding under Article 101 TFUE and Article 53 of the EEA Agreement (Case COMP/36.212 — Carbonless paper);