

Action brought on 27 December 2010 — Biodes v OHIM — Manasul International (BIESUL)**(Case T-597/10)**

(2011/C 80/40)

*Language in which the application was lodged: Spanish***Parties***Applicant:* Biodes, SL (Madrid, Spain) (represented by: E. Manresa Medina, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*Other party to the proceedings before the Board of Appeal of OHIM:* Manasul International, SL (Ponferrada, Spain)**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 23 September 2010 in Case R 1519/2009-1;

— order the defendant and any interveners to pay all the costs of the proceedings.

Pleas in law and main arguments*Applicant for a Community trade mark:* Biodes, SL.*Community trade mark concerned:* Figurative mark containing the word element 'BIESUL' for goods in Classes 5, 30 and 31.*Proprietor of the mark or sign cited in the opposition proceedings:* Manasul International, SL.*Mark or sign cited in opposition:* National figurative marks containing the word elements 'MANASUL' and 'MANASUL ORO' for goods in Classes 5, 30 and 31.*Decision of the Opposition Division:* Opposition rejected.*Decision of the Board of Appeal:* Appeal upheld and mark applied for refused.*Pleas in law:* Infringement of Article 8(1)(b) and (5) of Regulation (EC) No 207/2009, ⁽¹⁾ since there is no similarity between the marks at issue and the Board of Appeal failed to examine the proof of use of the earlier marks.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).**Action brought on 27 December 2010 — Biodes v OHIM — Manasul International (LINEASUL)****(Case T-598/10)**

(2011/C 80/41)

*Language in which the application was lodged: Spanish***Parties***Applicant:* Biodes, SL (Madrid, Spain) (represented by: E. Manresa Medina, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal of OHIM:* Manasul International, SL (Ponferrada, Spain)**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 23 September 2010 in Case R 1520/2009-1;

— order the defendant and any interveners to pay all the costs of the proceedings.

Pleas in law and main arguments*Applicant for a Community trade mark:* Biodes, SL.*Community trade mark concerned:* Figurative mark containing the word element 'LINEASUL' for goods in Classes 5, 30 and 31.*Proprietor of the mark or sign cited in the opposition proceedings:* Manasul International, SL.*Mark or sign cited in opposition:* National figurative marks containing the word elements 'MANASUL' and 'MANASUL ORO' for goods in Classes 5, 30 and 31.*Decision of the Opposition Division:* Opposition rejected.*Decision of the Board of Appeal:* Appeal upheld and mark applied for refused.*Pleas in law:* Infringement of Article 8(1)(b) and (5) of Regulation (EC) No 207/2009, ⁽¹⁾ since there is no similarity between the marks at issue and the Board of Appeal failed to examine the proof of use of the earlier marks.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).