

Judgment of the General Court of 8 February 2011 — Lan Airlines v OHIM — Air Nostrum (LÍNEAS AÉREAS DEL MEDITERRÁNEO LAM)

(Case T-194/09) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community word mark LINEAS AEREAS DEL MEDITERRANEO LAM — Earlier Community word and figurative marks LAN — Relative ground for refusal — No likelihood of confusion — No similarity between the signs — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009))

(2011/C 89/36)

Language of the case: Spanish

Parties

Applicant: Lan Airlines, SA (Renca, Chile) (represented by: E. Armijo Chávarri and A. Castán Pérez-Gómez, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Air Nostrum, Líneas Aéreas del Mediterráneo, SA (Manises, Spain)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 19 February 2009 (Case R 107/2008-4) relating to opposition proceedings between Lan Airlines, SA and Air Nostrum, Líneas Aéreas del Mediterráneo, SA.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Lan Airlines, SA to pay the costs.

⁽¹⁾ OJ C 167, 18.7.2009.

Judgment of the General Court of 9 February 2011 — Ineos Healthcare v OHIM — Teva Pharmaceutical Industries (ALPHAREN)

(Case T-222/09) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community word mark ALPHAREN — Earlier national word marks ALPHA D3 — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009) — Examination of the facts of its own motion — Article 74 of Regulation No 40/94 (now Article 76 of Regulation No 207/2009))

(2011/C 89/37)

Language of the case: English

Parties

Applicant: Ineos Healthcare Ltd (Warrington, Cheshire, United Kingdom) (represented by: S. Malynicz, Barrister, and A. Smith, Solicitor)

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: Teva Pharmaceutical Industries Ltd (Jerusalem, Israel)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 24 March 2009 (Case R 1897/2007-2), concerning opposition proceedings between Teva Pharmaceutical Industries Ltd and Ineos Healthcare Ltd

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 24 March 2009 (Case R 1897/2007-2) as regards the goods in the following categories: 'Pharmaceutical and veterinary preparations containing magnesium iron hydroxy carbonate or hydrotalcite or derivatives of these compounds', 'Phosphate binders for use in the treatment of hyperphosphataemia';
2. Dismisses the action as to the remainder;
3. Orders OHIM to bear its own costs and to pay half of the costs incurred by Ineos Healthcare Ltd;
4. Orders Ineos Healthcare to bear half of its own costs.

⁽¹⁾ OJ C 180, 1.8.2009.

Judgment of the General Court of 3 February 2011 — Gühring v OHIM (Combination of the colours broom yellow and silver grey and combination of the colours yellow ochre and silver grey)

(Case T-299/09 and T-300/09) ⁽¹⁾

(Community trade mark — Application for a Community trade mark consisting of a combination of the colours broom yellow and silver grey — Application for a Community trade mark consisting of a combination of the colours yellow ochre and silver grey — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009 — Examination of the facts of the Court's own motion — Article 76(1) of Regulation No 207/2009 — Obligation to state reasons — Article 75 of Regulation No 207/2009)

(2011/C 89/38)

Language of the case: German

Parties

Applicant: Gühring OHG (Albstadt, Germany) (represented by: A. von Mühlendahl and H. Hartwig, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented initially by G. Schneider and subsequently by G. Schneider and B. Schmidt, acting as Agents)