

Mark or sign cited in opposition: Greek trade mark registration No 147925 of the word mark 'CLOROX', for goods in classes 3 and 5; Benelux trade mark registration No 340039 of the word mark 'CLOROX', for goods in classes 1, 3 and 5; Czech trade mark registration No 165741 of the word mark 'CLOROX', for goods in classes 3 and 5; Danish trade mark registration No VR 04.153 1985 of the word mark 'CLOROX', for goods in class 3; French trade mark registration No 1402988 of the word mark 'CLOROX', for goods in classes 1, 3, 5, 29, 30, 31 and 32; Lithuanian trade mark registration No 8254 of the word mark 'CLOROX', for goods in classes 3 and 5; Portuguese trade mark registration No 296498 of the word mark 'CLOROX', for goods in class 3; Portuguese trade mark registration No 193727 of the word mark 'CLOROX', for goods in class 5; Spanish trade mark registration No 1047984 of the word mark 'CLOROX', for goods in class 3; Spanish trade mark registration No 835878 of the word mark 'CLOROX', for goods in class 5; Austrian trade mark registration No 52470 of the word mark 'CLOROX', for goods in class 1; Estonian trade mark registration No 8348 of the word mark 'CLOROX', for goods in classes 3 and 5; German trade mark registration No 644398 of the word mark 'CLOROX', for goods in classes 3 and 5; Hungarian trade mark registration No 124182 of the word mark 'CLOROX', for goods in classes 3 and 5; Latvian trade mark registration No M 10054 of the word mark 'CLOROX', for goods in classes 3 and 5; Slovenian trade mark registration No 9181304 of the word mark 'CLOROX', for goods in classes 3 and 5; Italian trade mark registration No 825852 of the word mark 'CLOROX', for goods in classes 3 and 5; Danish trade mark registration No VR 01.019 1978 of the word mark 'CLOROX', for goods in class 5; Finish trade mark registration No 93244 of the word mark 'CLOROX', for goods in classes 3 and 5; Polish trade mark registration No 60273 of the word mark 'CLOROX', for goods in classes 3 and 5

Decision of the Opposition Division: Upheld the Opposition

Decision of the Board of Appeal: Annulled the decision of the Opposition Division and rejected the opposition in its entirety

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal wrongly analysed the distinctive character of the marks at the stage of comparing them visually, aurally and conceptually, and also failed to take account of the clear similarities between the beginnings and endings of the marks.

Action brought on 9 March 2011 — Consorzio vino Chianti Classico v OHIM — Fédération française de rugby (Emblem with a drawing of a rooster)

(Case T-143/11)

(2011/C 152/44)

Language in which the application was lodged: English

Parties

Applicant: Consorzio vino Chianti Classico (Radda in Chianti, Italy) (represented by: S. Corona and G. Ciccone, lawyers)

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

Other party to the proceedings before the Board of Appeal: Fédération française de rugby (Paris, France)

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 10 January 2011 in case R 43/2010-4 and the Community trade mark application No 5713888 shall be prevented for registration, as of the date of the opposition;
- Subordinately, alter the above mentioned decision and prevent the application for the contested sign for registration for wines in class 33; and
- Order the other party to the proceedings before the Board of Appeal to pay its own costs, as well as those of the applicant, also for the proceedings in front of the Opposition Division and the Board of Appeal.

Pleas in law and main arguments

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

Community trade mark concerned: The figurative mark 'F.F.R' with the description 'orange-yellow: PMS reference 1235C; gold: PMS reference 145C; red: PMS reference 1795C', for goods in class 33 — Community trade mark application No 5713888

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

Mark or sign cited in opposition: Italian trade mark application No FI2007C00984 of the figurative mark (collective) 'CONSORZIO VINO CHIANTI CLASSICO — CHIANTI CLASSICO', for goods in class 33; Italian collective trade mark registration No 856049 of the figurative mark 'CHIANTI CLASSICO — CONSORZIO DEL MARCHIO STORICO', for goods in class 33; Italian collective trade mark registration No 856219 of the figurative mark 'CHIANTI CLASSICO — CHIANTI CLASSICO — CONSORZIO', for goods in class 33; Italian collective trade mark registration No 1006311 of the figurative mark 'CHIANTI CLASSICO — SINCE 1716', for goods in class 33; Italian collective trade mark registration No 856048 of the figurative mark 'CHIANTI CLASSICO — CONSORZIO DEL MARCHIO STORICO', for goods in class 33; United Kingdom trade mark registration No 1215633 of the figurative mark 'CONSORTIO VINO CHIANTI CLASSICO', for goods in class 33; German and France well known trade mark 'CHIANTI CLASSICO — CONSORZIO VINO CHIANTI CLASSICO', for goods in class 33; and non registered trade mark used in the course of trade in Germany and France 'CHIANTI CLASSICO — CONSORZIO VINO CHIANTI CLASSICO', for goods in class 33.

Decision of the Opposition Division: Upheld the opposition

Decision of the Board of Appeal: Annulled the decision of the Opposition Division and rejected the opposition in its entirety

Pleas in law: Infringement of Articles 8(1)(b) and 8(5) of Council Regulation No 207/2009, as the Board of Appeal: (i) wrongly concluded that there is no likelihood of confusion between the contested sign and the applicant's trademarks and it did not take into adequate consideration the enhanced distinctiveness of the applicant's marks; (ii) failed to consider the detriment to the applicant's trademarks and the unfair advantage that the contested sign would gain if its registration were allowed; and (iii) failed to consider the specificity of the case, that in the nature of the collective trademark of the applicant's mark, with an institutional function that makes it one of the States hallmarks.

Action brought on 16 March 2011 — Reddig v OHMI — Morleys (Shape of knife handles)

(Case T-164/11)

(2011/C 152/45)

Language in which the application was lodged: English

Parties

Applicant: Reddig GmbH (Drebber, Germany) (represented by: C. Thomas, lawyer)

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

Other party to the proceedings before the Board of Appeal: Morleys Ltd (Preston, 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 15 December 2010 in case R 1072/2009-2;
- Order the defendant to pay the costs incurred in the proceedings before the General Court and order the (potential) intervener to pay the costs of the administrative proceedings before the Board of Appeal; and
- Set a date for an oral hearing for the case that findings of the General Court are not possible without an oral hearing.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The three-dimensional mark 'dolphin', for goods in classes 6, 8 and 20 — Community trade mark registration No 2630101

Proprietor of the Community trade mark: The applicant

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

Grounds for the application for a declaration of invalidity: The party requesting the declaration of invalidity grounded its request on absolute grounds for invalidity pursuant to Article 52(1)(a) in conjunction with Article 7(1)(b), (c), (d) and (e)(ii) of Council Regulation (EC) No 207/2009, and on that the proprietor had acted in bad faith when failing the application pursuant to Article 52(1)(b) of Council Regulation (EC) No 207/2009.

Decision of the Cancellation Division: Accepted the request for a declaration of invalidity and declared the registration of the Community trade mark invalid in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1)(e)(ii) of Council Regulation No 207/2009, the Board of Appeal incorrectly interpreted this article and incorrectly interpreted the requirements of the Lego decision of the Court of the European Union (Judgement of the Court of 14 September 2010, Lego Juris v OHIM, C-48/09 P).

Action brought on 11 March 2011 — Stichting Regionaal Opleidingencentrum van Amsterdam v OHIM — Investimust (COLLEGE)

(Case T-165/11)

(2011/C 152/46)

Language in which the application was lodged: English

Parties

Applicant: Stichting Regionaal Opleidingencentrum van Amsterdam (Amsterdam, Netherlands) (represented by: R.M.R. van Leeuwen, lawyer)

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

Other party to the proceedings before the Board of Appeal: Investimust, S.A. (Geneva, Switzerland)

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 12 January 2011 in case R 508/2010-4; and
- Order the defendant to pay the costs of the proceedings.