

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.