

Action brought on 7 June 2011 — Metropolis Inmobiliarias y Restauraciones v OHIM — MIP Metro (METROINVEST)

(Case T-284/11)

(2011/C 232/61)

Language in which the application was lodged: English

Parties

Applicant: Metropolis Inmobiliarias y Restauraciones, SL (Barcelona, Spain) (represented by: J. Carbonell Callicó, lawyer)

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

Other party to the proceedings before the Board of Appeal: MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany)

Form of order sought

- Modify the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 March 2011 in case R 954/2010-1, and grant the Community trade mark application for the word mark 'METROINVEST';
- Subordinately, and only in the case the former claim would be rejected, annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 March 2011 in case R 954/2010-1;
- Order the defendant and the other party to the proceedings before the Board of Appeal to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'METROINVEST', for services in class 36 — Community trade mark application No 7112113

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 in opposition: German trade mark registration No 30348717, of the figurative mark 'METRO', in blue and yellow, for a range of goods and services in classes 1 to 45;

Community trade mark application No 779116, of the figurative mark 'METRO', in yellow, for a range of goods and services in classes 1 to 42

Decision of the Opposition Division: Upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 6 and 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, related to the right to fair trial and the prohibition of any discrimination and to Community law general principle of equal treatment. Infringement by the Board of Appeal of Article 8(1)(b) of Council Regulation No 207/2009, because of the lack of confusion risk between both conflicting trademarks.

Appeal brought on 6 June 2011 by Luigi Marcuccio against the order of the Civil Service Tribunal of 16 March 2011 in Case F-21/10 Marcuccio v Commission

(Case T-286/11 P)

(2011/C 232/62)

Language of the case: Italian

Parties

Appellant: Luigi Marcuccio (Tricase, Italy) (represented by G. Cipressa, lawyer)

Other party to the proceedings: European Commission

Form of order sought by the appellant

The appellant claims that the General Court should:

- Set aside in its entirety and without exception the order under appeal; and
- grant all the appellant's claims in the proceedings at first instance;
- order the Commission to reimburse the appellant in respect of the costs incurred by him in the proceedings at first instance under appeal;

or, in the alternative:

- refer the case back to the Civil Service Tribunal, sitting in a different formation, for a fresh decision on each of the claims referred to above.