

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

Other party to the proceedings before the Board of Appeal: Artsana SpA (Grandate, Italy)

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 27 October 2011 in case R 2084/2010-1;
- Order the defendant to pay to the applicant, the applicant's costs of and occasioned by this appeal.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'CHICO'S', for goods and services in classes 25 and 35 — Community trade mark application No 1585579

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: Italian trade mark registration No 420865 of the figurative mark 'chicco', for among others goods in class 25; Italian trade mark registration No 846672/380042 of the figurative mark 'chicco', for among others goods in class 25; International trade mark registration No 763084 of the figurative mark 'chicco', for among others goods in class 25

Decision of the Opposition Division: Upheld the opposition and rejected the Community trade mark application in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 15(1)(a), 42(2) and (3) of Council Regulation No 207/2009, as the Board of Appeal erred in concluding that the opponent's evidence proved genuine use of the earlier mark in Italy. Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal erred in concluding that there was a likelihood of confusion between the CTM application and the earlier mark.

Action brought on 21 February 2012 — Lilleborg v OHIM — Hardford (Pierre Robert)

(Case T-85/12)

(2012/C 118/52)

Language in which the application was lodged: English

Parties

Applicant: Lilleborg AS (Oslo, Norway) (represented by: E. Ullberg and M. Plogell, lawyers)

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

Other party to the proceedings before the Board of Appeal: Hardford AB (Limhamn, Sweden)

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 7 December 2011 in case R 2462/2010-1, and consequently order OHIM to evaluate the proof of existence, validity and scope of the earlier mark that the applicant has submitted;
- Or, alternatively, alter the decision of the First Board of Appeal by a decision of its own and refuse the registration of Community trade mark No 8541849 'Pierre Robert'; and
- Order the defendant to pay the costs of the proceedings, including those incurred in the proceedings before the Opposition Division and the First Board of Appeal of OHIM.

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 word mark 'Pierre Robert', for goods and services in classes 3, 5 and 44 — Community trade mark application No 8541849

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

Mark or sign cited in opposition: Swedish trade mark registration No 164251 of the word mark 'PIERRE ROBERT', for goods in class 3

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Rule 50(1) of Commission Regulation No 2868/95 and Articles 76, 8 and 8(2)(c) of Council Regulation No 207/2009, as the Board of Appeal: (i) has neglected its right to examine the facts of its own motion, and take into consideration facts that are apparently likely to affect the outcome of the opposition; (ii) erred in law when it did not consider that 'PIERRE ROBERT' is a well known mark; (iii) failed when not considering the evidence, Annex 1, which was submitted in connection with the filing of the opposition; and (iv) failed when not accepting the certificate from the Swedish Patent and Registration Office filed before the decision of the opposition division.

Community trade mark concerned: The word mark 'Pierre Robert', for goods and services in classes 3, 5 and 44 — Community trade mark application No 8541849

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

Mark or sign cited in opposition: Swedish trade mark registration No 166274 of the figurative mark 'Pierre Robert', for goods in classes 3, 5 and 25

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Action brought on 21 February 2012 — Robert Group v OHIM — Hardford (Pierre Robert)

(Case T-86/12)

(2012/C 118/53)

Language in which the application was lodged: English

Parties

Applicant: Pierre Robert Group AS (Oslo, Norway) (represented by: E. Ullberg and M. Plogell, lawyers)

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

Other party to the proceedings before the Board of Appeal: Hardford AB (Limhamn, Sweden)

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 7 December 2011 in case R 2463/2010-1, and consequently order OHIM to evaluate the proof of existence, validity and scope of the earlier mark that the applicant has submitted;
- Or, alternatively, alter the decision of the First Board of Appeal by a decision of its own and refuse the registration of Community trade mark No 8541849 'Pierre Robert'; and
- Order the defendant to pay the costs of the proceedings, including those incurred in the proceedings before the Opposition Division and the First Board of Appeal of OHIM.

Pleas in law and main arguments

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

Pleas in law: Infringement of Rule 50(1) of Commission Regulation No 2868/95 and Articles 76, 8 and 8(2)(c) of Council Regulation No 207/2009, as the Board of Appeal: (i) has neglected its right to examine the facts of its own motion, and take into consideration facts that are apparently likely to affect the outcome of the opposition; (ii) erred in law when it did not consider that 'Pierre Robert' is a well known mark; (iii) failed when not considering the evidence, Annex 1, which was submitted in connection with the filing of the opposition; and (iv) failed when not accepting the certificate from the Swedish Patent and Registration Office filed before the decision of the opposition division.

Action brought on 27 February 2012 — Elegant Target Development and Others v Council

(Case T-90/12)

(2012/C 118/54)

Language of the case: English

Parties

Applicants: Elegant Target Development Ltd (Hong Kong, China); Eternal Expert Ltd (Hong Kong); Giant King Ltd (Hong Kong); Golden Charter Development Ltd (Hong Kong); Golden Summit Investments Ltd (Hong Kong); Golden Wagon Development Ltd (Hong Kong); Grand Trinity Ltd (Hong Kong); Great Equity Investments Ltd (Hong Kong); Great Prospect International Ltd (Hong Kong); Harvest Supreme Ltd (Hong Kong); Key Charter Development Ltd (Hong Kong); King Prosper Investments Ltd (Hong Kong); Master Supreme International Ltd (Hong Kong); Metro Supreme International Ltd (Hong Kong); Modern Elegant Development Ltd (Hong Kong); Prosper Metro Investments Ltd (Hong Kong); Silver Universe International Ltd (Hong Kong); and Sparkle Brilliant Development Ltd (Hong Kong) (represented by: F. Randolph, M. Lester, Barristers, and M. Taher, Solicitor)

Defendant: Council of the European Union