

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 8(1)(b) and 8(5) of Council Regulation No 207/2009

Action brought on 29 October 2012 — Internationaler Hilfsfonds v European Commission

(Case T-482/12)

(2013/C 26/106)

Language of the case: German

Parties

Applicant: Internationaler Hilfsfonds eV (Rosbach, Germany) (represented by: H.-H. Heyland, lawyer)

Defendant: European Commission

Form of order sought

— Annul the defendant's implicit decision by which it rejected the applicant's second application of 4 October 2012;

— In the alternative, annul the defendant's decision of 28 August 2012 on account of its failure to take into account the requirements arising from the judgment of the General Court of 22 May 2012 in Case T-300/10;

— Order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant argues essentially that in its decision the Commission partially failed to take into account the requirements arising from the judgment of the General Court of 22 May 2012 in Case T-300/10 *Internationaler Hilfsfonds v Commission*, not yet published in the ECR.

Action brought on 5 November 2012 — Nestlé Unternehmungen Deutschland v OHIM — Lotte (LOTTE)

(Case T-483/12)

(2013/C 26/107)

Language in which the application was lodged: German

Parties

Applicant: Nestlé Unternehmungen Deutschland GmbH (Frankfurt am Main, Germany) (represented by: A. Jaeger-Lenz, lawyer)

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

Other party to the proceedings before the Board of Appeal: Lotte Co. Ltd (Tokyo, Japan)

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 3 September 2012 in case R 2103/2010-4;

— order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Lotte Co. Ltd

Community trade mark concerned: Figurative mark containing the word element 'LOTTE' and an image of a koala on a tree, holding a smaller koala, for goods in Class 30 — Community trade mark application 6 158 463

Proprietor of the mark or sign cited in the opposition proceedings: Nestlé Unternehmungen Deutschland GmbH

Mark or sign cited in opposition: National figurative marks containing the word elements 'KOALA BÄREN' and 'KOALA' and an image of a koala holding a smaller koala, for goods in Class 30

Decision of the Opposition Division: Opposition allowed

Decision of the Board of Appeal: Appeal granted; decision of the Opposition Division annulled

Pleas in law: Infringement of Article 42(2) and (3) of Regulation No 207/2009, Rule 22(2) of Regulation No 2868/95 and Article 15(1) of Regulation No 207/2009

Action brought on 6 November 2012 — CeWe Color v OHIM (SMILECARD)

(Case T-484/12)

(2013/C 26/108)

Language of the case: German

Parties

Applicant: CeWe Color AG & Co. OHG (Oldenburg, Germany) (represented by U. Sander, lawyer)

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