

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

Grounds for the application for a declaration of invalidity: The requests for a declaration of invalidity were based on the grounds laid down in Article 53(1)(a) in conjunction with Article 8(1)(b) and 8(5) and Article 53(2) of Council Regulation No 207/2009, and on the Benelux trade mark registration No 377513 of the word mark 'PENTASA', for goods in class 5

Decision of the Cancellation Division: Accepted the request for a declaration of invalidity against the CTM for all the contested goods and services

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 53(3) of Council Regulation No 207/2009; and

— Infringement of Article 8(1)(b) of Council Regulation No 207/2009

Action brought on 17 December 2012 — Pensa Pharma v OHIM — Ferring and Farmaceutisk Lab Ferring (pensa)

(Case T-546/12)

(2013/C 55/33)

Language in which the application was lodged: English

Parties

Applicant: Pensa Pharma, SA (Valencia, Spain) (represented by: M. Esteve Sanz and M. González Gordon, lawyers)

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

Other parties to the proceedings before the Board of Appeal: Ferring BV (Hoofddorp, Netherlands) and Farmaceutisk Lab Ferring A/S (Vanlose, Denmark)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 October 2012 in case R 1884/2011-5; and

— Order the defendant and if the case might be, the interveners, to pay the costs of the proceedings and the costs of the appeal incurred within the OHIM.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The figurative mark 'pensa', for goods and services in classes 3, 5 and 44 — Community trade mark registration No 4963542

Proprietor of the Community trade mark: The applicant

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— Infringement of Article 53(3) of Council Regulation No 207/2009; and

— Infringement of Article 8(1)(b) of Council Regulation No 207/2009.

Action brought on 21 December 2012 — bachmeier v OHIM (oto-soft)

(Case T-550/12)

(2013/C 55/34)

Language of the case: German

Parties

Applicant: bachmeier GmbH & Co. KG (Ramsau b. Berchtesgaden, Germany) (represented by D. Donath, lawyer)

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