

Action brought on 18 December 2012 — Deutsche Rockwool Mineralwoll v OHIM — Redrock Construction (REDROCK)

(Case T-548/12)

(2013/C 63/41)

Language in which the application was lodged: English

Parties

Applicant: Deutsche Rockwool Mineralwoll GmbH & Co. OHG (Gladbeck, Germany) (represented by: J. Krenzel, lawyer)

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

Other party to the proceedings before the Board of Appeal: Redrock Construction s.r.o. (Prague, Czech Republic)

Form of order sought

The applicant claims that the Court should:

— Set aside the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 16 October 2012 in case R 1596/2011-4; and

— Order the defendant to pay the costs.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The figurative mark in black and white 'REDROCK', for, among others, goods and services in classes 1, 2, 17, 19 and 37 — Community trade mark registration No 3866365

Proprietor of the Community trade mark: The other party to the proceedings before the Board of Appeal

Applicant for the declaration of invalidity of the Community trade mark: The applicant

Grounds for the application for a declaration of invalidity: The request for a declaration of invalidity was based on the grounds laid down in Article 53(1)(a) in conjunction with Article 8(1)(b) of Council Regulation No 207/2009. The cancellation applicant invoked the following earlier rights: German trade mark registration No 30229274 of the word mark 'Rock', for goods and services in classes 1, 6, 7, 8, 17, 19, 37 and 42; German trade mark registrations No 30312115, No 2078534, No 2078535, No 2079579, No 39502727, No 39517348, No 39543868, No 39551027, No 39605619, No 39644214, No 39707589, No 39737546, No 39920622, No 30166175, No 30166176, No 30166177, No 30212141, of the word marks 'KEPROCK', 'FLEXIROCK', 'FORMROCK', 'FLOOR-ROCK', 'TERMAROCK', 'KLIMAROCK', 'SPEEDROCK',

'DUROCK', 'SPLITROCK', 'PLANAROCK', 'TOPROCK', 'KLEMMROCK', 'FLIXROCK', 'SONOROCK PLUS', 'VARIROCK', 'SONOROCK', AND 'MASTERROCK', for goods and services in classes 17, 19 and 37.

Decision of the Cancellation Division: Rejected the request of declaration of invalidity against the CTM registration

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009.

Action brought on 26 December 2012 — Nemeco/OHIM — Coca-Cola (NU)

(Case T-549/12)

(2013/C 63/42)

Language in which the application was lodged: English

Parties

Applicant: Nemeco (Paris, France) (represented by: E. Gaspar, lawyer)

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

Other party to the proceedings before the Board of Appeal: The Coca-Cola Company (Atlanta, United States)

Form of order sought

The applicant claims that the Court should:

— Annul the decision rendered by the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) on October 16, 2012 (Case No. R 266/2012-2);

— Order OHIM to bear its own costs and to pay Nemeco's costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark 'NU', for goods in class 32 — International Registration No 1 033 122 designating the European Union

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: Community trade mark registration No 5386081 of the word mark 'NU YU', for goods in classes 29, 30 and 32

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

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009.