

Decision of the Board of Appeal: Annulled the contested decision, upheld the opposition and rejected the trade mark applied for in relation to certain goods in classes 3, 5, 8, 10, 11, 16, 18, 21, 25 and 28

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

Action brought on 1 March 2013 — Vicente Gandia Pla/OHIM — Tesco Stores (MARQUES DE CHIVÉ)

(Case T-128/13)

(2013/C 123/35)

Language in which the application was lodged: English

Parties

Applicant: Vicente Gandia Pla, SA (Chiva, Spain) (represented by: I. Temiño Cenicerros, lawyer)

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

Other party to the proceedings before the Board of Appeal: Tesco Stores Ltd (Cheshunt, United Kingdom)

Form of order sought

The applicant claims/claim that the Court should:

- Declare admissible the here concerned appeal and enclosures;
- Annul the Boards of Appeal Decision;
- Condemn the OHIM and the intervener to bear the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark 'MARQUES DE CHIVÉ' for goods in classes 29, 32 and 33 — Community trade mark registration No 9 571 415

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: United Kingdom registration No 1 520 720 of the word mark 'MARQUES DE CHIVE' for goods in class 33

Decision of the Opposition Division: Rejected the opposition directed at the application for the goods in class 33 for lack of genuine use

Decision of the Board of Appeal: Annulled the contested decision and rejected the application for the goods in class 33

Pleas in law: Infringement of Articles 42(2) and (3) of Council Regulation No 207/2009.

Action brought on 4 March 2013 — Deweerdt and Others v Court of Auditors

(Case T-132/13)

(2013/C 123/36)

Language of the case: French

Parties

Applicants: Sonja Deweerdt (Rulles, Belgium); Didier Lebrun (Luxembourg, Luxembourg); and Margot Lietz (Mensdorf, Luxembourg) (represented by: A. Coolen, J.-N. Louis, E. Marchal and D. Abreu Caldas, lawyers)

Defendant: Court of Auditors of the European Union

Form of order sought

The applicants claim that the Court should:

- Declare Article 4 of the Rules of Procedure of the Court of Auditors unlawful inasmuch as it has the effect of ensuring the impunity of a Member who is guilty of harassment;
- Annul the decision of the Court of Auditors of 13 December 2012 not to refer the matter to the Court of Justice in order to request it to examine whether Ms S., at that time a Member of the Court of Auditors, no longer fulfilled the requisite conditions or met the obligations arising from her office and, should her term of office have already ended, to deprive her of her right to a pension;
- Order the Court of Auditors to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on four pleas in law.

1. The first plea in law alleges that Article 4 of the Rules of Procedure of the Court of Auditors is unlawful inasmuch as it ensures the impunity of a Member who is guilty of harassment.