

- In the alternative, and only in the event that the Court should consider the documents produced at the time of the appeal before the Board of Appeal inadmissible and should consider those documents essential for the purposes of granting the appeal, annul the contested decision on the ground of failure to have regard to the right to be heard and infringement of the rights of the defence and refer the case back to the Cancellation Division for a decision on the substance;
- In any event, call upon OHIM to adopt the measures necessary to comply with the judgment of the General Court;
- Order OHIM to pay the costs of the present proceedings and the trade mark proprietor to pay the costs of the proceedings before the Cancellation Division and the Board of Appeal.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: figurative mark containing the word element 'Camomilla' for goods in Classes 16, 18 and 24 — Community trade mark No 269 241

Proprietor of the Community trade mark: Camomilla SpA

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

Grounds for the application for a declaration of invalidity: National figurative mark containing the word element 'CAMOMILLA' for goods in Class 25

Decision of the Cancellation Division: application rejected

Decision of the Board of Appeal: appeal dismissed

Pleas in law: Infringement of Article 52(1)(b) and Article 53(1)(a), in conjunction with Article 8(1)(b), of Regulation No 207/2009

Action brought on 20 February 2013 — CMT v OHIM — Camomilla (Camomilla)

(Case T-99/13)

(2013/C 141/36)

Language in which the application was lodged: Italian

Parties

Applicant: CMT Compagnia manifatture tessili Srl (CMT Srl) (Naples, Italy) (represented by: G. Florida and R. Florida, lawyers)

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

Other party to the proceedings before the Board of Appeal: Camomilla SpA (Buccinasco, 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 29 November 2012 in Case R 1617/2011-1 by finding that the absolute ground for invalidity under Article 52(1)(b) of Regulation No 207/2009 — based on the bad faith of the proprietor of the Community trade mark at the time when the application was filed — and the relative ground for invalidity under Article 53(1)(a), in conjunction with Articles 8(1)(b) and 8(5) of the regulation, are made out;
- In the alternative, and only in the event that the Court should consider the documents produced at the time of the appeal before the Board of Appeal inadmissible and should consider those documents essential for the purposes of granting the appeal, annul the contested decision on the ground of failure to have regard to the right to be heard and infringement of the rights of the defence and refer the case back to the Cancellation Division for a decision on the substance;
- In any event, call upon OHIM to adopt the measures necessary to comply with the judgment of the General Court;
- Order OHIM to pay the costs of the present proceedings and the trade mark proprietor to pay the costs of the proceedings before the Cancellation Division and the Board of Appeal.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: figurative mark containing the word element 'Camomilla' for goods in Classes 3, 9, 14, 16, 21, 24 and 28 — Community trade mark No 3 158 196

Proprietor of the Community trade mark: Camomilla SpA

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

Grounds for the application for a declaration of invalidity: National figurative mark containing the word element 'CAMOMILLA' for goods in Class 25

Decision of the Cancellation Division: Application rejected

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Infringement of Article 52(1)(b) and Article 53(1)(a), in conjunction with Article 8(1)(b), of Regulation No 207/2009

Action brought on 20 February 2013 — CMT v OHIM — Camomilla (CAMOMILLA)

(Case T-100/13)

(2013/C 141/37)

Language in which the application was lodged: Italian

Parties

Applicant: CMT Compagnia manifatture tessili Srl (CMT Srl) (Naples, Italy) (represented by: G. Florida and R. Florida, lawyers)

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

Other party to the proceedings before the Board of Appeal: Camomilla SpA (Buccinasco, 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 29 November 2012 in Case R 1616/2011-1 by finding that the absolute ground for invalidity under Article 52(1)(b) of Regulation No 207/2009 — based on the bad faith of the proprietor of the Community trade mark at the time when the application was filed — and the relative ground for invalidity under Article 53(1)(a), in conjunction with Articles 8(1)(b) and 8(5) of the regulation, are made out;
- In the alternative, and only in the event that the Court should consider the documents produced at the time of the appeal before the Board of Appeal inadmissible and should consider those documents essential for the purposes of granting the appeal, annul the contested decision on the ground of failure to have regard to the right to be heard and infringement of the rights of the defence and refer the case back to the Cancellation Division for a decision on the substance;
- In any event, call upon OHIM to adopt the measures necessary to comply with the judgment of the General Court;
- Order OHIM to pay the costs of the present proceedings and the trade mark proprietor to pay the costs of the proceedings before the Cancellation Division and the Board of Appeal.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: word mark 'CAMOMILLA' for goods in Classes 3, 9, 11, 14, 16, 18, 20, 21, 24, 25, 27, 28, 30 and 33 — Community trade mark No 7 077 55

Proprietor of the Community trade mark: Camomilla SpA

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

Grounds for the application for a declaration of invalidity: National figurative mark containing the word element 'CAMOMILLA' for goods in Class 25

Decision of the Cancellation Division: application rejected

Decision of the Board of Appeal: appeal dismissed

Pleas in law: Infringement of Article 52(1)(b) and Article 53(1)(a), in conjunction with Article 8(1)(b), of Regulation No 207/2009

Action brought on 20 February 2013 — Synergy Hellas v Commission

(Case T-106/13)

(2013/C 141/38)

Language of the case: Greek

Parties

Applicant: d.d. Synergy Hellas Anonimi Emporiki Etairia Parokhis Ipiresion Pliroforikis (Athens, Greece) (represented by: M. Angelopoulos and K. Damis, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- declare that the company's exclusion by the European Commission from participation in the ARTreat programme constitutes a breach of the Commission's contractual obligations in the light of the principles of proportionality and the protection of legitimate expectations, and order the Commission to pay to the applicant the sum of three hundred and forty-three thousand eight hundred and twenty-eight euro and eighty-eight cent (EUR 343 828,88) in respect of the payments which are owed by the Commission for the ARTreat project, together with interest from the date on which the present action is lodged;