

2. Second plea in law, alleging distortion by the Civil Service Tribunal of the facts and evidence both when the Civil Service Tribunal held that the appellant enjoyed the protection provided for in paragraph 3 of Article 22a of the Staff Regulations of Officials of the European Union and when the Civil Service Tribunal held that the appellant had not put forward any evidence that the administrative inquiry directed against it was initiated by way of retaliation (concerning paragraphs 87, 88 and 94 of the judgment under appeal).

Action brought on 30. September 2013 — Kenzo/OHIM — Tsujimoto (KENZO ESTATE)

(Case T-528/13)

(2013/C 367/56)

Language in which the application was lodged: English

Parties

Applicant: Kenzo (Paris, France) (represented by: P. Roncaglia, G. Lazzeretti, F. Rossi and N. Parrotta, lawyers)

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

Other party to the proceedings before the Board of Appeal: Kenzo Tsujimoto (Osaka, Japan)

Form of order sought

The applicant claims that the Court should:

- annul the contested decision in so far as it accepted International registration No. 1016724 designating the European Union for the mark ‘Kenzo Estate’ for: ‘Olive oil (for food); grape seed oil (for food); edible oils and fats; raisins; processed vegetables and fruits; frozen vegetables; frozen fruits; raw pulses; processed meat products; processed seafood’ in class 29; ‘Confectionery, bread and buns; wine vinegar; olive dressing; seasonings (other than spices); spices; sandwiches; pizzas; hot dogs (sandwiches); meat pies; ravioli’ in class 30; and ‘Grapes (fresh); olives (fresh); fruits (fresh); vegetables (fresh); seeds and bulbs’ in class 31;
- order OHIM to pay the costs incurred by the applicant during these proceedings;
- order Kenzo Tsujimoto to pay the costs incurred by the applicant in the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark ‘KENZO ESTATE’ for goods and services in classes 29, 30, 31, 35, 41 and 43 — International Registration No W 1 016 724

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Community trade mark ‘KENZO’ for goods in classes 3, 18 and 25

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Dismissed the appeal in part

Pleas in law: Infringement of Article 8(5) of Council Regulation No 207/2009.

Action brought on 7 October 2013 — Vakoma v OHIM — VACOM (VAKOMA)

(Case T-535/13)

(2013/C 367/57)

Language in which the application was lodged: German

Parties

Applicant: Vakoma GmbH (Magdeburg, Germany) (represented by: P. Kazzer, lawyer)

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

Other party to the proceedings before the Board of Appeal: VACOM Vakuum Komponenten & Messtechnik GmbH (Jena, Germany)

Form of order sought

The applicant claims that the Court should:

- Reject opposition No B1 833 915 as unfounded by annulling the decision of the First Board of Appeal of OHIM of 1 August 2013 (Case R 0908/2012-1), which was notified to the applicant on 6 August 2013, and by annulling the decision of the Opposition Division of OHIM of 12 March 2012;
- Order the defendant to pay the costs.