

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Walicka, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Underberg AG (Dietlikon, Switzerland) (represented by: V. von Bomhard, A. Renck and J. Fuhrmann, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 26 March 2012 (Case R 2506/2010-4) concerning opposition proceedings between Przedsiębiorstwo Polmos Białystok (Spółka Akcyjna) and Underberg AG.

Operative part of the judgment

The Court:

- 1) Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 26 March 2012 (Case R 2506/2010-4);
- 2) Orders OHIM to bear its own costs and to pay those incurred by CEDC International sp. z o.o.;
- 3) Orders Underberg AG to bear its own costs.

⁽¹⁾ OJ C 243, 11.8.2012.

Judgment of the General Court of 11 December 2014 — Coca-Cola v OHIM — Mitico (Master)
(Case T-480/12) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark Master — Earlier Community figurative marks Coca-Cola and earlier national figurative mark C — Relative ground for refusal — Article 8(5) of Regulation (EC) No 207/2009 — Similarity of the signs — Evidence relating to the commercial use of the mark applied for)

(2015/C 046/55)

Language of the case: English

Parties

Applicant: The Coca-Cola Company (Atlanta, Georgia, United States) (represented by: S. Malynicz, Barrister, D. Stone and L. Ritchie, Solicitors, and S. Baran, Barrister)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Crespo Carrillo, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Modern Industrial & Trading Investment Co. Ltd (Mitico) (Damascus, Syria) (represented by: A.-I. Malami, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 29 August 2012 (Case R 2156/2011-2) concerning opposition proceedings between The Coca-Cola Company and Modern Industrial & Trading Investment Co. Ltd (Mitico).

Operative part of the judgment

The Court:

- 1) Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 29 August 2012 (Case R 2156/2011-2);

- 2) Orders OHIM to bear its own costs and to pay those incurred by The Coca-Cola Company;
- 3) Orders Modern Industrial & Trading Investment Co. Ltd (Mitico) to bear its own costs.

⁽¹⁾ OJ C 26, 26.1.2013.

Judgment of the General Court of 11 December 2014 — Heli-Flight v EASA

(Case T-102/13) ⁽¹⁾

(Civil aviation — Application for approval of flight conditions for a Robinson R66 helicopter — Rejection decision of the EASA — Action for annulment — Scope of the Board of Appeal's review — Scope of the Court's review — Action for failure to act — Non-contractual liability)

(2015/C 046/56)

Language of the case: German

Parties

Applicant: Heli-Flight GmbH & Co. KG (Reichelsheim, Germany) (represented by: T. Kittner, lawyer)

Defendant: European Aviation Safety Agency (EASA) (represented by: T. Masing and C. Eckart, lawyers)

Re:

First, application for annulment of the decision of the EASA of 13 January 2012 rejecting the applicant's application for approval of flight conditions submitted for a Robinson R66 helicopter (serial number 0034); secondly, application for a declaration that the EASA failed to act concerning the processing of the applicant's applications of 11 July 2011 and 10 January 2012 concerning that helicopter and, thirdly, claim that the EASA should make good the damage that the applicant considers it has suffered because of that rejection decision and that alleged failure to act.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Heli-Flight GmbH & Co. KG to pay the costs.

⁽¹⁾ OJ C 123, 27.4.2013.

Judgment of the General Court of 12 December 2014 — Ludwig Schokolade v OHIM — Immergut (TrinkFix)

(Case T-105/13) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community word mark TrinkFix — Earlier national and Community word marks Drinkfit — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Similarity of the goods and services — Article 8(1) (b) of Regulation (EC) No 207/2009 — Genuine use of the earlier mark — Article 42(2) and (3) of Regulation No 207/2009)

(2015/C 046/57)

Language of the case: German

Parties

Applicant: Ludwig Schokolade GmbH & Co. KG (Bergisch Gladbach, Germany) (represented by: S. Fischer and A. Brodkorb, lawyers)