

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders AGC Glass Europe SA, AGC Automotive Europe SA, AGC France SAS, AGC Flat Glass Italia Srl, AGC Glass UK Ltd and AGC Glass Germany GmbH to pay the costs.

⁽¹⁾ OJ C 379, 8.12.2012.

Judgment of the General Court of 15 July 2015 — Cactus v OHIM — Del Rio Rodríguez (CACTUS OF PEACE CACTUS DE LA PAZ)

(Case T-24/13) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark CACTUS OF PEACE CACTUS DE LA PAZ — Earlier Community word mark CACTUS and earlier figurative mark Cactus — Genuine use of the earlier mark — Article 42(2) of Regulation (EC) No 207/2009 — Article 76(1) and (2) of Regulation No 207/2009)

(2015/C 302/56)

Language of the case: English

Parties

Applicant: Cactus SA (Bertrange, Luxembourg) (represented by: K. Manhaeve, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Isabel Del Rio Rodríguez (Malaga, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 19 October 2012 (Case R 2005/2011-2), relating to opposition proceedings between Cactus SA and Isabel Del Rio Rodríguez.

Operative part of the judgment

The Court:

1. Annuls point 1 of the operative part of the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 19 October 2012 (Case R 2005/2011-2) in so far as it rejected the opposition on the grounds that 'retailing of natural plants and flowers, grains; fresh fruits and vegetables' services in Class 35 were not covered by the earlier marks;
2. Annuls point 2 of the operative part of the decision of the Second Board of Appeal of OHIM of 19 October 2012 referred to above in so far as it annulled the part of the decision of the Opposition Division allowing the opposition based on 'natural plants and flowers, grains' in Class 31, and point 1 of the operative part of that decision, which rejected the opposition based on those goods;
3. Dismisses the action as to the remainder;
4. Orders Cactus SA to pay one third of the costs incurred by the parties before the General Court and orders OHIM to pay two thirds of those costs.

⁽¹⁾ OJ C 101, 6.4.2013.