

Form of order sought

The applicant claims that the Court should:

- annul the contested decision to the extent that it dismissed the applicant's appeal against the decision of the Opposition Division of 27 November 2013 in case B 2 027 053, and to the extent that it granted the other party's appeal against the same decision of the Opposition Division;
- the opposition of the other party to the registration of the applicant's community trade mark application No. 1 042 4703 is dismissed;
- order OHIM and the other party, if it should intervene in these proceedings, to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 17 September 2015 — Industrie Aeronautiche Reggiane v OHIM — Audi (NSU)

(Case T-541/15)

(2015/C 381/62)

Language in which the application was lodged: English

Parties

Applicant: Industrie Aeronautiche Reggiane Srl (Reggio Emilia, Italy) (represented by: M. Gurrado, lawyer)

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

Other party to the proceedings before the Board of Appeal: Audi AG (Ingolstadt, Germany)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'NSU' — Application for registration No 9 593 492

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 6 July 2015 in Case R 2132/2014-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and, as a result, the OHIM shall proceed with the registration of the application for CTM;
- order AUDI to bear its own costs and pay those of the Applicant, also for the proceedings before the OHIM Opposition Division and the Board of Appeal.

Pleas in law

- Audi failed to demonstrate genuine use of the earlier mark;
- Existence of a difference between components and finished products;
- Existence of a difference between bicycles and the goods indicated in the request of limitation dated 16 October 2014.

Action brought on 22 September 2015 — Guiral Broto v OHIM — Gastro & Soul (Café Del Sol)
(Case T-549/15)
(2015/C 381/63)

Language in which the application was lodged: Spanish

Parties

Applicant: Ramón Guiral Broto (Marbella, Spain) (represented by: J. de Castro Hermida, lawyer)

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

Other party to the proceedings before the Board of Appeal: Gastro & Soul GmbH (Hildesheim, Germany)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark containing the word elements 'CAFE DEL SOL' — Application for registration No 6 104 608

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 16 July 2015 in Case R 1888/2014-5

Form of order sought

The applicant claims that the Court should:

- Annul the contested decision and allow the opposition based on the earlier mark held by Ramón Guiral Broto, Spanish mark No 2348110, in Class 42 of the International Classification.
- Rule that the opposition is upheld, confirming the decision of the Opposition Division refusing the application for the Community trade mark No 006104608 **CAFE DEL SOL** in respect of 'provision of food and drink, temporary accommodation and catering', in Class 43 of the International Classification, requested by the German commercial company Gastro & Soul GmbH, or if the Court should not have jurisdiction in that respect, to refer the matter back to a Board of Appeal of the Office for Harmonisation in the Internal Market, with the direction to uphold the opposition.