

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

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'CAFFÈ NERO' — Application for registration No 13 238 019

Contested decision: Decision of the First Board of Appeal of OHIM of 4 November 2015 in Case R 410/2015-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- allow Community trade mark application No. 13238019 to proceed to registration;
- waive the objections to the CTM Application under Articles 7(1)(b), (c) and (g) and Article 7(2);
- allow the CTM Application to proceed to acceptance and advertisement for all covered goods and services;
- order OHIM to pay the Applicant's costs in this matter.

Pleas in law

- Infringement of Article 7(1)(b), (c) and (g) of Regulation No 207/2009;
- Infringement of Article 7(2) of Regulation No 207/2009.

Action brought on 26 January 2016 — M.I. Industries v OHIM — Natural Instinct (Natural Instinct Dog and Cat food as nature intended)

(Case T-30/16)

(2016/C 106/47)

Language in which the application was lodged: English

Parties

Applicant: M.I. Industries, Inc. (Lincoln, United States) (represented by: T. Elias, Barrister, B. Cookson, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Natural Instinct Ltd (Camberley, United Kingdom)

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 'Natural Instinct Dog and Cat food as nature intended' — Application for registration No 11 438 074

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 26 November 2015 in Case R 2944/2014-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- the applicant's opposition No B 002 181 272 be upheld and NIL's application No 11 438 074 be refused; alternatively, declare that the applicant has proved use its CTMs No 5 208 418 and No 5 208 201 for the purposes of the opposition No B 002 181 272, and remit the matter to the Fifth Board of Appeal for a determination of the issues arising in respect of each of those marks under Article 8(1)(b) CTMR; in the further alternative, remit the matter back to the Fifth Board of Appeal in its entirety;
- order the defendant to pay to the applicant the applicant's costs of and occasioned by this appeal.

Pleas in law

- Infringement of Article 42(2) Regulation No 207/2009;
- Infringement of Rule 22(3) and (4) of Regulation No 2868/95;
- Infringement of Article 8(1)(b) Regulation No 207/2009;
- Infringement of Article 75 Regulation No 207/2009.

Action brought on 25 January 2016 — adp Gauselmann v OHIM (Juwel)

(Case T-31/16)

(2016/C 106/48)

Language of the case: German

Parties

Applicant: adp Gauselmann GmbH (Espelkamp, Germany) (represented by: P. Koch Moreno, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'Juwel' — Application for registration No 12 426 888

Contested decision: Decision of the First Board of Appeal of OHIM of 16 November 2015 in Case R 2571/2014-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order OHIM to pay the costs.

Pleas in law

- Neither Article 7(1)(b) nor Article 7(1)(c) of Regulation No 207/2009 is applicable.
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