

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 7 December 2018 by Michal Harvilik — HYDRA against the order of the General Court (Fifth Chamber) delivered on 25 September 2018 in Case T-365/18, Michal Harvilik — HYDRA v Czech Republic and the European Court of Human Rights

(Case C-768/18 P)

(2019/C 213/02)

Language of the case: Slovak

Parties

Appellant: Michal Harvilik — HYDRA (represented by: A. Wagner, lawyer)

Other parties to the proceedings: Czech Republic, European Court of Human Rights

By order of 19 March 2019, the Court of Justice (Seventh Chamber) ruled that the present appeal is inadmissible.

Appeal brought on 14 February 2019 by China Construction Bank Corp. against the judgment of the General Court (Ninth Chamber) delivered on 6 December 2018 in Case T-665/17: China Construction Bank v EUIPO

(Case C-115/19 P)

(2019/C 213/03)

Language of the case: English

Parties

Appellant: China Construction Bank Corp. (represented by: A. Carboni, J. Gibbs, Solicitors)

Other parties to the proceedings: European Union Intellectual Property Office, Groupement des cartes bancaires

Form of order sought

The Appellant claims that the Court should:

- set aside the judgment of the General Court dated 6 December 2018 in Case T-665/17;
- give final judgment in respect of Article 8(1)(b) of Regulation (EU) 2017/1001 ⁽¹⁾ or alternatively that the case be remitted to the General Court, and
- order the EUIPO and any intervening parties in this appeal to bear their own costs and pay the Appellant's costs of these proceedings and those of the proceedings before the General Court in Case T-665/17.

Pleas in law and main arguments

The Appellant has three grounds of appeal in respect of the contested decision, which are that the General Court:

1. infringed Article 8(1)(b) EUTMR; and
2. failed to state reasons for its finding that the intervener's earlier mark relied on ('earlier mark') had enhanced distinctive character in relation to 'financial affairs, monetary affairs, banking', and/or
3. distorted the facts both in relation to its assessment of the earlier mark and the opposed mark and in reaching the said finding of enhanced distinctive character.

The Appellant's plea of infringement of Article 8(1)(b) can be further sub-divided into the following errors made by the General Court in its assessment of the case:

1. the General Court took account of the reputation of the earlier mark at the first stage of assessing the similarity of the marks, as well as when conducting the global assessment of likelihood of confusion, which was an incorrect approach and resulted in impermissible 'double counting';
2. the General Court wrongly treated both the earlier mark and opposed mark as if they were essentially word marks, paying insufficient regard to their figurative nature, which adversely affected the assessment of both the visual and the aural similarities of the marks in issue and the relative weight to be given to each;
3. the General Court made a number of errors in relation to identifying the services in class 36 for which it held that the earlier mark had a reputation and thus distinctive character, and
4. both as a result of the foregoing errors and as a result of ignoring additional important factors, the General Court failed to conduct a proper global assessment of the likelihood of confusion between the earlier mark and the opposed mark.

(¹) Regulation (EU) 2017/1001 of the European Parliament and of the Council of 14 June 2017 on the European Union trade mark (OJ 2017, L 154, p. 1).
