

Operative part of the judgment

The Court:

1. Joins Case T-362/05 and T-363/05 for the purposes of the judgment.
2. Dismisses the actions.
3. Orders Nuova Agricast Srl to bear its own costs and to pay those incurred by the Commission in Case T-362/05.
4. Orders Cofra Srl to bear its own costs and to pay those incurred by the Commission in Case T-363/05.

(¹) OJ C 296, 26.11.2005.

Judgment of the Court of First Instance of 26 November 2008 — Rajani v OHIM — Artoz-Papier (ATOZ)

(Case T-100/06) (¹)

(Community trade mark — Opposition proceedings — Application for Community word mark ATOZ — Earlier international word mark ARTOZ — No requirement to provide evidence of genuine use — Starting point for the five-year time-limit — Date of registration of the earlier mark — Article 43(2) and (3) of Regulation (EC) No 40/94 — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 — Obligation to state the reasons on which a measure is based — Articles 73 and 79 of Regulation (EC) No 40/94 and Article 6 of the ECHR)

(2009/C 19/45)

Language of the case: English

Parties

Applicant: Deepak Rajani (Berlin, Germany) (represented by: A. Dustmann, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Artoz-Papier AG (Lenzburg, Switzerland)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 11 January 2006 (Case R 1126/2004-2), concerning opposition proceedings between Artoz Papier AG and Deepak Rajani.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Deepak Rajani to pay the costs.

(¹) OJ C 235, 6.10.2007.

Judgment of the Court of First Instance of 26 November 2008 — En Route International v OHIM (FRESHHH)

(Case T-147/06) (¹)

(Community trade mark — Application for registration of the word mark FRESHHH as a Community trade mark — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94)

(2009/C 19/46)

Language of the case: German

Parties

Applicant: En Route International Ltd (Datchet, United Kingdom) (represented by: W. Göpfert, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: R. Pethke, Agent)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 7 March 2006 (Case R 352/2005-4) concerning registration of the word sign FRESHHH as a Community trade mark.

Operative part of the judgment

1. The action is dismissed.
2. En Route International Ltd is ordered to pay the costs.

(¹) OJ C 178 of 29.7. 2006.