

Form of order sought

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 July 2011 in case R 1436/2010-2;
- Review and consider the documents submitted during the opposition and appeal proceedings before the Office for Harmonisation in the Internal Market (Trade Marks and Designs) regarding the reputation of the earlier mark or order the defendant to rule a new decision considering the said documentation;
- Uphold in its entirety the opposition filed by the applicant;
- Order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to definitively reject and in its entirety the contested Community trade mark No 4724647, of the word mark 'GULBENKIAN', for all the goods and services applied for in classes 4, 33, 35, 36, 37, 41, 42 and 44;
- Order the defendant to bear the costs incurred by the applicant in these proceedings; and
- Order the intervener, in case it appears before the Court, to pay the costs of the current proceedings, as well as those incurred by the applicant in the proceedings before the Office (opposition and appeal).

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'GULBENKIAN', for among others goods and services in classes 4, 33, 35, 36, 37 and 42 — Community trade mark application No 4724647

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Well-known mark 'Fundação Calouste Gulbenkian' in Portugal for 'arts (plastic arts and music); charity (health and human development); science (research and promotion); education (support and development); technical and management services related to the oil industry'; Company name 'Fundação Calouste Gulbenkian' used for 'arts (plastic arts and music); charity (health and human development); science (research and promotion); education (support and development); technical and management services related to the oil industry'; Logos Nos 5.351 and 5.352 'Fundação Calouste Gulbenkian' used for 'arts (plastic arts and music);

charity (health and human development); science (research and promotion); education (support and development); technical and management services related to the oil industry'.

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Partially annulled the decision of the Opposition Division and rejected the appeal for the remaining part

Pleas in law: Infringement of Articles 8(1)(b), 8(4) and 8(5) of Council Regulation No 207/2009, and the applicable case-law, as the Board of Appeal incorrectly appreciated the various factors to be taken into account when assessing likelihood of confusion.

Order of the General Court of 19 October 2011 — Scovill Fasteners v Commission

(Case T-447/07) ⁽¹⁾

(2011/C 362/32)

Language of the case: English

The President of the First Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 37, 9.2.2008.

Order of the General Court of 18 October 2011 — Confortel Gestión v OHIM — Homargrup (CONFORTEL AQUA 4)

(Case T-521/10) ⁽¹⁾

(2011/C 362/33)

Language of the case: Spanish

The President of the Third Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 30, 29.1.2011.