

GENERAL COURT

Judgment of the General Court of 16 December 2010 — Fidelio v OHIM (Hallux)

(Case T-286/08) ⁽¹⁾

(Community trade mark — Application for Community word mark Hallux — Absolute ground for refusal — Article 7(1)(c) of Regulation (EC) No 40/94 (now Article 7(1)(c) of Regulation (EC) No 207/2009))

(2011/C 46/13)

Language of the case: German

Parties

Applicant: Fidelio KG (Linz, Austria) (represented by: M. Gail, lawyer)

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

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 21 May 2008 (Case R 632/2007-4) relating to registration of the word sign 'Hallux' as a Community trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Fidelio KG to pay the costs.

⁽¹⁾ OJ C 247, 27.9.2008.

Judgment of the General Court of 17 December 2010 — Chocoladefabriken Lindt & v OHIM (Shape of a chocolate rabbit with a red ribbon)

(Case T-336/08) ⁽¹⁾

(Community trade mark — Application for a three-dimensional Community trade mark — Shape of a chocolate rabbit with a red ribbon — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EC) No 207/2009) — Lack of distinctive character acquired through use — Article 7(3) of Regulation (EC) No 40/94 (now Article 7(3) of Regulation (EC) No 207/2009))

(2011/C 46/14)

Language of the case: German

Parties

Applicant: Chocoladefabriken Lindt & (Kilchberg, Switzerland) (represented by: R. Lange, E. Schalast and G. Hild, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 11 June 2008 (Case R 1332/2005-4), concerning an application for registration as a Community trade mark of a three-dimensional sign consisting of the shape of a chocolate rabbit with a red ribbon.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Chocoladefabriken Lindt & Sprüngli AG to pay the costs.

⁽¹⁾ OJ C 260, 11.10.2008.

Judgment of the General Court of 17 December 2010 — Chocoladefabriken Lindt & Sprüngli v OHIM (Representation of a reindeer made of chocolate)

(Case T-337/08) ⁽¹⁾

(Community trade mark — Application for a three-dimensional Community trade mark — Representation of a reindeer made of chocolate — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EC) No 207/2009))

(2011/C 46/15)

Language of the case: German

Parties

Applicant: Chocoladefabriken Lindt & Sprüngli AG (Kilchberg, Switzerland) (represented by: R. Lange, E. Schalast and G. Hild, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Pohlmann, acting as Agent)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 12 June 2008 (Case R 780/2005-4), concerning an application for registration as a Community trade mark of a three-dimensional sign consisting of the representation of a reindeer made of chocolate.

Operative part of the judgment

The Court:

1. Dismisses the action;