

2. *Orders Chocoladefabriken Lindt & Sprüngli AG to pay the costs.*

(¹) OJ C 260, 11.10.2008.

Judgment of the General Court of 16 December 2010 — Rubinstein and L'Oréal v OHIM — Allergan (BOTOLIST and BOTOCYL)

(Joined cases T-345/08 and T-357/08) (¹)

(Community trade mark — Invalidity proceedings — Community word marks BOTOLIST and BOTOCYL — Earlier national figurative and word marks BOTOX — Relative ground for refusal — Damage to reputation — Article 8(5) of Regulation (EC) No 40/94 (now Article 8(5) of Regulation (EC) No 207/2009) — Obligation to state the reasons on which the decision is based — Article 73 of Regulation No 40/94 (now Article 75 of Regulation No 207/2009))

(2011/C 46/16)

Language of the case: English

Parties

Applicants: Helena Rubinstein SNC (Paris, France) (represented by: A. von Mühlendahl and J. Pagenberg, lawyers) (Case T-345/08); and L'Oréal SA (Paris) (represented by: A. von Mühlendahl and J. Pagenberg, lawyers) (Case T-357/08)

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

Other party to the proceedings before the Board of Appeal of OHIM: Allergan, Inc. (Irvine, California, United States)

Re:

ACTIONS brought against, in Case T-345/08, the decision of the First Board of Appeal of OHIM of 28 May 2008 (Case R 863/2007-1), relating to cancellation proceedings between Allergan, Inc. and Helena Rubinstein SNC, and, in Case T-357/08, the decision of the First Board of Appeal of OHIM of 5 June 2008 (Case R 865/2007-1), relating to cancellation proceedings between Allergan, Inc. and L'Oréal SA

Operative part of the judgment

The Court:

1. Dismisses the actions;
2. Orders Helena Rubinstein SNC to pay the costs in Case T-345/08;
3. Orders L'Oréal SA to pay the costs in Case T-357/08.

(¹) OJ C 272, 25.10.2008.

Judgment of the General Court of 17 December 2010 — Chocoladefabriken Lindt & Sprüngli v OHIM (Representation of a small bell with a red ribbon)

(Case T-346/08) (¹)

(Community trade mark — Application for a three-dimensional Community trade mark — Representation of a small bell 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))

(2011/C 46/17)

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 13 June 2008 (Case R 943/2007-4), concerning an application for registration as a Community trade mark of a three-dimensional sign consisting of the representation of a small bell 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 (Shape of a chocolate rabbit)

(Case T-395/08) (¹)

(Community trade mark — Application for a three-dimensional Community trade mark — Shape of a chocolate rabbit — 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 46/18)

Language of the case: German

Parties

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