

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The word mark 'LAURA ASHLEY' for various goods in classes 3, 18, 24 and 25

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited: International trade mark registration No 311 675 of the figurative mark 'Ashley's' for goods in class 25; Italian trade mark registration No 517 151 of the figurative mark 'Ashley's' for goods in class 3, 18, 24 and 25; international trade mark registration No 646 926 of the figurative mark 'Ashley's il primo Cashmere Italiano' for goods in class 25

Decision of the Opposition Division: Upheld the opposition in its entirety

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 8(5) of Council Regulation No 40/94 as the Board of Appeal failed to establish whether the applicant was using the Community trade mark applied for without due cause.

Appeal brought on 1 August 2008 by Kurt-Wolfgang Braun-Neumann against the judgment of the Civil Service Tribunal delivered on 23 May 2008 in Case F-79/07, Braun-Neumann v Parliament

(Case T-306/08 P)

(2008/C 247/43)

Language of the case: German

Parties

Appellant: Kurt-Wolfgang Braun-Neumann (Lohr am Main, Germany) (represented by: P. Ames, Rechtsanwalt)

Other party to the proceedings: European Parliament

Form of order sought by the appellant

— Set aside the order of the European Union Civil Service Tribunal of 23 May 2008 in Case F-79/07;

— rule on the merits and uphold the appellant's original application and therefore order the Parliament to pay him with retroactive effect from 1 August 2004 the other half of the survivor's pension in right of Mrs Mandt in the monthly sum of EUR 1 670,84 plus interest at the rate applied by the European Central Bank on the marginal lending facility, increased by 3 %;

— in the alternative, refer the case back to the Civil Service Tribunal of the European Union for judgment.

Pleas in law and main arguments

The appeal is directed against the Civil Service Tribunal's order of 23 May 2008 in Case F-79/07 *Braun-Neumann v Parliament*, dismissing as inadmissible the action brought by the appellant.

The appellant submits in support of his appeal that the Civil Service Tribunal erred in law in its interpretation of Article 90(2) of the Staff Regulations of Officials of the European Communities, since its interpretation infringes general principles of Community law. In the appellant's view, the Tribunal's interpretation of a letter as an act adversely affecting it is incorrect. Further, the principle of legal certainty can be satisfied only if the absence of information about available legal remedies is regarded as prejudicial to the determination of when the period for lodging the complaint commenced, since otherwise the litigant's rights would be undermined. Lastly, the Tribunal's interpretation should be regarded as disproportionate in view of the consequences for the appellant.

Action brought on 8 August 2008 — BSH Bosch und Siemens Hausgeräte v OHIM (executive edition)

(Case T-310/08)

(2008/C 247/44)

Language in which the application was lodged: German

Parties

Applicant: BSH Bosch und Siemens Hausgeräte GmbH (Munich, Germany) (represented by: S. Biagosch, Rechtsanwalt)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

— annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 June 2008 in Case R-845/2007-1;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to bear its own costs and to pay those of the applicant.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'executive edition' for goods in Classes 7, 9 and 11 (application No 4 908 182).

Decision of the Examiner: rejection of the application.