

Judgment of the Court (First Chamber) of 9 September 2010 — Office for Harmonisation in the Internal Market (Trade Marks and Designs) v BORCO-Marken-Import Matthiesen GmbH & Co. KG

(Case C-265/09 P) ⁽¹⁾

(Appeal — Community trade mark — Application for registration of the figurative sign ‘a’ — Absolute grounds for refusal — Distinctive character — Mark consisting of a single letter)

(2010/C 288/19)

Language of the case: German

Parties

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

Other party to the proceedings: BORCO-Marken-Import Matthiesen GmbH & Co. KG (represented by: M. Wolter, Rechtsanwalt)

Re:

Appeal brought against the judgment of the Court of First Instance (Sixth Chamber) of 29 April 2009 in Case T-23/07 *Borco-Marken-Import Matthiesen v OHIM (a)*, by which the Court annulled the decision of the Fourth Board of Appeal of OHIM of 30 November 2006, dismissing the action brought against the decision of the examiner refusing the registration of the figurative sign ‘a’ as a Community trade mark for goods in Class 33 — Distinctive character of a mark consisting of a single letter

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) to pay the costs.

⁽¹⁾ OJ C 233, 26.9.2009.

Order of the Court of 9 June 2010 — European Commission v Schneider Electric SA, Federal Republic of Germany, French Republic

(Case C-440/07 P) ⁽¹⁾

(Appeal — Partial annulment of the judgment under appeal — Where the state of the proceedings so permits — Non contractual liability of the Community — Evaluation of the loss)

(2010/C 288/20)

Language of the case: French

Parties

Appellant: European Commission (represented by: M. Petite, F. Arbault, T. Christoforou, R. Lyal and C-F Durand, Agents)

Other parties to the proceedings: Schneider Electric SA (represented by: M. Pittie and A. Winckler, lawyers), Federal Republic of Germany, French Republic

Re:

Appeal against the judgment of the Court of First Instance (Fourth Chamber, Extended Composition) in case T-351/03 *Schneider Electric v Commission*, by which the Court ordered the European Commission to make good, first, the expenses incurred by Schneider Electric SA in respect of its participation in the resumed merger control procedure which followed delivery of the judgments of the Court of First Instance on 22 October 2002 in Cases T-310/01 and T-77/02 *Schneider Electric v Commission* and, second, two thirds of the loss sustained by Schneider Electric as a result of the reduction in the transfer price of Legrand SA which Schneider Electric had to concede to the transferee in exchange for the postponement of the effective date of sale of Legrand until 10 December 2002 — Conditions governing the establishment of non contractual liability on the part of the Community — Concepts of wrongful act, damage and direct causal link between the wrongful act and the damage suffered — ‘Sufficiently serious’ breach of Community law vitiating the procedure for examination of the compatibility of a concentration with the common market

Operative part of the order

1. The amount of the loss to be made good in point 3 of the operative part of the judgment of the Court of Justice of the European Communities of 16 July 2009 in Case C-440/07 P *Commission v Schneider Electric* [2009] ECR I-6413 is fixed at EUR 50 000.