

determined on the basis of the method of calculation applied in the original investigation in order to take account of the fact that Chinese export VAT was not refunded.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Dashiqiao Sanqiang Refractory Materials Co. Ltd to bear its own costs and to pay those incurred by the Council of the European Union;
3. Orders the European Commission to bear its own costs.

(¹) OJ C 312, 19.12.2009.

Judgment of the General Court of 13 December 2011 — Goodyear Dunlop Tyres UK v OHIM — Sportfive (QUALIFIER)

(Case T-424/09) (¹)

(Community trade mark — Opposition proceedings — Application for Community word mark QUALIFIER — Earlier Community word mark Qualifiers 2006 — Refusal to register — Relative ground for refusal — Likelihood of confusion — article 8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 32/42)

Language of the case: German

Parties

Applicant: Goodyear Dunlop Tyres UK Ltd (Birmingham, United Kingdom) (represented by: M. Graf, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Sportfive GmbH & Co. KG (Cologne, Germany)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 11 August 2009 (Case R 1291/2008-4) relating to opposition proceedings between Sportfive GmbH & Co. KG and Goodyear Dunlop Tyres UK Ltd.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Goodyear Dunlop Tyres UK Ltd to pay the costs.

(¹) OJ C 312, 19.12.2009.

Judgment of the General Court of 14 December 2011 — Völkl v OHIM — Marker Völkl (VÖLKL)

(Case T-504/09) (¹)

(Community trade mark — Opposition proceedings — Application for Community word mark VÖLKL — Earlier international word mark VÖLKL — Relative ground for refusal — Likelihood of confusion — Refusal in part of registration — Article 8(1)(b) of Regulation (EC) No 207/2009 — Genuine use of the earlier mark — Article 42(2) and (3) of Regulation No 207/2009 and Rule 22(3) of Regulation (EC) No 2868/95 — Competence of the Board of Appeal in the case of an appeal limited to part of the goods or services covered by the application for registration — Article 64(1) of Regulation No 207/2009 — Application for variation of the decision of the Board of Appeal — Article 65(3) of Regulation No 207/2009)

(2012/C 32/43)

Language of the case: German

Parties

Applicant: Völkl GmbH & Co. KG (Erding, Germany) (represented by: C. Raßmann, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Marker Völkl International GmbH (Baar, Switzerland) (represented by: J. Bauer, lawyer)

Re:

Action against the decision of the First Board of Appeal of OHIM of 30 September 2009 (Case R 1387/2008-1) concerning opposition proceedings between Marker Völkl International GmbH and Völkl GmbH & Co. KG.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 30 September 2009 (Case R 1387/2008-1);
2. Dismisses the action as to the remainder;
3. Orders OHIM to bear its own costs and pay those incurred by Völkl GmbH & Co. KG;
4. Orders Marker Völkl International GmbH to bear its own costs.

(¹) OJ C 37, 13.2.2010.