

Pleas in law:

Infringement of Article 8(1)(b) of Council Regulation No 207/2009 as the Board of Appeal wrongly held that there was a likelihood of confusion between the trade marks concerned.

Decision of the Board of Appeal: Opposition Division's decision annulled and the opposition rejected in its entirety.

Pleas in law: Incorrect interpretation and application of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 30 November 2009 — ATB Norte v OHIM — Bricocenter Italia (BRICO CENTER)

(Case T-475/09)

(2010/C 24/114)

Language in which the application was lodged: Spanish

Parties

Applicant: ATB Norte, SL (Burgos, Spain) (represented by: P. López Ronda, G. Macías Bonilla, H.L. Curtis-Oliver and G. Marín Raigal, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Bricocenter Italia Srl (Rozzano Milanofiori (Milan), Italy)

Form of order sought

— Annul the decision of the Fourth Board of Appeal of OHIM of 24 September 2009 — R 500/2008-4.

— Order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Bricocenter Italia S.r.l.

Community trade mark concerned: Figurative mark containing the word element 'BRICOCENTER' (Application No 4 934 147) in respect of services in Class 35.

Proprietor of the mark or sign cited in the opposition proceedings: ATB Norte, SL.

Mark or sign cited in opposition: Figurative Community trade marks containing the word elements 'CENTROS DE BRICOLAGE BRICOCENTRO' (No 3 262 623) and 'ATB CENTROS DE BRICOLAGE BRICOCENTRO' (No 989 046) in respect of services in Classes 35, 37 and 39.

Decision of the Opposition Division: Opposition was upheld.

Action brought on 30 November 2009 — ATB Norte v OHIM — Bricocenter Italia (BRICO CENTER)

(Case T-476/09)

(2010/C 24/115)

Language in which the application was lodged: Spanish

Parties

Applicant: ATB Norte, SL (Burgos, Spain) (represented by: P. López Ronda, G. Macías Bonilla, H.L. Curtis-Oliver and G. Marín Raigal, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Bricocenter Italia Srl (Rozzano Milanofiori (Milan), Italy)

Form of order sought

— Annul the decision of the Fourth Board of Appeal of OHIM of 24 September 2009 — R 1006/2008-4.

— Order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Bricocenter Italia S.r.l.

Community trade mark concerned: Figurative mark containing the word element 'BRICOCENTER' (Application No 4 934 212) in respect of services in Class 35.

Proprietor of the mark or sign cited in the opposition proceedings: ATB Norte, SL.

Mark or sign cited in opposition: Figurative Community trade marks containing the word elements 'CENTROS DE BRICOLAGE BRICOCENTRO' (No 3 262 623) and 'ATB CENTROS DE BRICOLAGE BRICOCENTRO' (No 989 046) in respect of services in Classes 35, 37 and 39.

Decision of the Opposition Division: Opposition upheld.