

Appeal brought on 6 April 2010 by Mr Karen Goncharov against the judgment of the General Court (Fourth Chamber) delivered on 21 January 2010 in Case T-34/07 Karen Goncharov v Office for Harmonisation in the Internal Market (Trade Marks and Designs); other party to the proceedings before the Board of Appeal of OHIM: DSB

(Case C-156/10 P)

(2010/C 148/32)

Language of the case: German

Parties

Appellant: Karen Goncharov (represented by: A. Späth and G.N. Hasselblatt, Rechtsanwälte)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), DSB

Form of order sought

The appellant requests the Court to:

- Set aside the judgment of the General Court of 21 January 2010 (Case T-34/07);
- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 4 December 2006 (Case R 1330/2005-2); and
- Order OHIM to pay the costs of the proceedings before the Court of Justice, the General Court and the Board of Appeal, as well as the appellant's costs.

Pleas in law and main arguments

The judgment of the General Court of 21 January 2010 (Case T-34/07) should be set aside, because it infringes the provision on the relative grounds for refusal of registration contained in Article 8(1)(b) of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (replaced by Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark).

The General Court misapplied the general principles concerning the assessment of the likelihood of confusion. In particular, it failed to take the circumstances of the present case fully into account, by disregarding the fact that the marks at issue consist in acronyms.

The General Court bases its decision finally only on a general rule according to which the consumer usually attaches greater weight to the first part of words. Thus, the difference in the form of the letter 'W' in the contested mark is not sufficient to eliminate the visual and aural similarity.

The General Court thereby ignored the fact that the marks in conflict are not words, but acronyms. The reasoning of the judgment shows that the General Court failed to undertake a comprehensive examination of the likelihood of confusion, relying instead only on a general rule, which is moreover not applicable at all to the present case.

The consumer is in fact accustomed in the case of acronyms to directing his attention specifically to each single letter. General rules concerning word marks consisting in words may not therefore be applied without hesitation to word marks consisting in acronyms.

Reference for a preliminary ruling from the Tribunal de grande instance de Paris (France) lodged on 6 April 2010
— Olivier Martinez, Robert Martinez v MGN Ltd

(Case C-161/10)

(2010/C 148/33)

Language of the case: French

Referring court

Tribunal de grande instance de Paris

Parties to the main proceedings

Applicants: Olivier Martinez, Robert Martinez

Defendant: MGN Limited

Question referred

Must Articles 2 and 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters ⁽¹⁾ be interpreted to mean that a court or tribunal of a Member State has jurisdiction to hear an action brought in respect of an infringement of personal rights allegedly committed by the placing on-line of information and/or photographs on an internet site published in another Member State by a company domiciled in that second State — or in a third Member State, but in any event a State other than the first Member State —:

- on the sole condition that the internet site can be accessed from the first Member State,

- on the sole condition that there is between the harmful act and the territory of the first Member State a link which is sufficient, substantial or significant and, in that case, whether that link can be created by:
 - the number of hits on the page at issue made from the first Member State, as an absolute figure or as a proportion of all hits on that page,

 - the residence, or nationality, of the person who complains of the infringement of his or her personal rights or, more generally, of the persons concerned,

 - the language in which the information at issue is broadcast or any other factor which may demonstrate the site publisher's intention to address specifically the public of the first Member State,

 - the place where the events described occurred and/or where the photographic-images put on line were taken,

 - other criteria?

⁽¹⁾ OJ 2001 L 12, p. 1.

Order of the President of the Second Chamber of the Court of 19 March 2010 — European Commission v Kingdom of Belgium

(Case C-307/08) ⁽¹⁾

(2010/C 148/34)

Language of the case: French

The President of the Second Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 272, 25.10.2008

Order of the President of the First Chamber of the Court of 12 March 2010 (reference for a preliminary ruling from the Landgericht Tübingen — Germany) — FGK Gesellschaft für Antriebsmechanik mbH v Notar Gerhard Schwenkel, in the presence of: Präsidentin des Landgericht Tübingen

(Case C-450/08) ⁽¹⁾

(2010/C 148/35)

Language of the case: German.

The President of the First Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 69, 21.03.2009.

Order of the President of the Third Chamber of the Court of 5 March 2010 (reference for a preliminary ruling from the Court of Appeal — United Kingdom) — The Motor Insurers' Bureau v Helphire (UK) Limited, Angel Assistance Limited

(Case C-26/09) ⁽¹⁾

(2010/C 148/36)

Language of the case: English.

The President of the Third Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 282, 21.11.2009