

**Judgment of the General Court of 21 September 2012 —  
Wesergold Getränkeindustrie v OHIM — Lidl Stiftung  
(WESTERN GOLD)**

(Case T-278/10) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for Community word mark WESTERN GOLD — Earlier national, international and Community word marks WESERGOLD, Wesergold, and WeserGold — Relative grounds for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Distinctiveness of the earlier marks)*

(2012/C 343/23)

Language of the case: German

**Parties**

*Applicant:* Wesergold Getränkeindustrie GmbH & Co. KG (Rinteln, Germany) (represented by: P. Goldenbaum, T. Melchert and I. Rohr, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by A. Marx and M. Schaeffer, lawyers)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 24 March 2010 (Case R 770/2009-1) concerning opposition proceedings between Wesergold Getränkeindustrie GmbH & Co. KG and Lidl Stiftung & 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 24 March 2010 (Case R 770/2009-1);
2. Orders OHIM to bear its own costs and also to pay the costs of the applicant;
3. Orders Lidl Stiftung & Co. KG to bear its own costs.

<sup>(1)</sup> OJ C 221, 14.8.2010.

**Judgment of the General Court of 20 September 2012 —  
Hungary v Commission**

(Case T-407/10) <sup>(1)</sup>

*(Structural funds — Financial assistance — Budapest-Kelenföld-Székesfehérvár-Boba railway line — VAT — Non-eligible expenditure)*

(2012/C 343/24)

Language of the case: Hungarian

**Parties**

*Applicant:* Hungary (represented by: M.Z. Fehér and K. Szíjjártó, agents)

*Defendant:* European Commission (represented by: A. Steiblyté, D. Triantafyllou and V. Bottka, agents)

**Re:**

Action for annulment brought against the Commission Decision of 8 July 2010 relating to the major project for 'Reconstruction of the Budapest-Kelenföld-Székesfehérvár-Boba railway line, section 1, phase 1' forming part of the 'Transport' operational programme for structural support from the European Regional Development Fund (ERDF) and the Cohesion Fund (CCI 2008HU161PR015).

**Operative part of the judgment**

*The Court:*

1. Dismisses the action;
2. Orders Hungary to pay the costs.

<sup>(1)</sup> OJ C 317, 20.11.2010.

**Judgment of the General Court of 20 September 2012 —  
HerkuPlast Kubern v OHIM — How (eco-pack)**

(Case T-445/10) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for Community trade mark eco-pack — Earlier national and international word marks ECOPAK — Likelihood of confusion — Similarity of the goods — Article 8(1)(b) of Regulation (EC) No 207/2009)*

(2012/C 343/25)

Language of the case: German

**Parties**

*Applicant:* HerkuPlast Kubern GmbH (Ering, Germany) (represented by: G. Württenberger and R. Kunze, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Heidi A.T. How (Harrow, United Kingdom)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 27 July 2010 (Case R 2014/2009-4) concerning opposition proceedings between HerkuPlast Kubern GmbH and Heidi A.T. How.

**Operative part of the judgment**

*The Court:*

1. Annuls the decision of the Fourth Board of Appeal of Office for Harmonisation in the Internal Market of 27 July 2010 (Case R 2014/2009-4);