

Decision of the Cancellation Division: Rejected the application for a declaration of invalidity

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(c) and (g) of Council Regulation No 207/2009 as the Board of Appeal wrongly applied the legal provisions in question; infringement of international agreements concerning the protection of geographical indications.

Action brought on 24 March 2010 — Solae v OHIM — Délitaste (alpha taste)

(Case T-145/10)

(2010/C 148/67)

Language in which the application was lodged: English

Parties

Applicant: Solae Holdings LLC (St. Louis, United States) (represented by: E. Armijo Chávarri, lawyer)

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

Other party to the proceedings before the Board of Appeal: Délitaste S.A. Industrielle et Commerciale d'Aliments (Thessaloniki, Greece)

Form of order sought

— Deem the present appeal and attached documents to have been duly filed;

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 16 December 2009 in case R 92/2009-2; and

— Order the defendant to bear the costs.

Pleas in law and main arguments

Applicant for the Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark “alpha taste”, for goods and services in classes 29, 30, 39 and 43

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited: Community trade mark registration of the mark “ALPHA”, for goods in class 29

Decision of the Opposition Division: Partially admitted the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009 as the Board of Appeal wrongly found that there was only a partial likelihood of confusion between the trade marks concerned.

Action brought on 30 March 2010 — Meda Pharma v OHIM — Nycomed (ALLERNIL)

(Case T-147/10)

(2010/C 148/68)

Language in which the application was lodged: German

Parties

Applicant: Meda Pharma GmbH & Co. KG (Bad Homburg, Germany) (represented by: G. Würtenberger and R. Kunze, 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:
Nycomed GmbH (Konstanz, Germany)

**Action brought on 25 March 2010 — Hynix
Semiconductor v Commission**

(Case T-148/10)

(2010/C 148/69)

Language of the case: English

Form of order sought

— Annul the decision of the Fourth Board of Appeal of 29 September 2009 in Case R 697/2007-4 concerning the opposition filed on the basis of German mark No 1 042 583 'ALLERGODIL' against application No 4 066 452 for the Community trade mark 'ALLERNIL';

— Order the defendant to pay the costs of the proceedings.

Parties

Applicant: Hynix Semiconductor, Inc. (Icheon-si, Korea) (represented by: A. Woodgate and O. Heinisch, Solicitors)

Defendant: European Commission

Pleas in law and main arguments

Applicant for a Community trade mark: Nycomed GmbH

Community trade mark concerned: Word mark 'ALLERNIL' for goods in Class 5

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: German word mark No 1 042 583 'ALLERGODIL' for goods in Class 5

Decision of the Opposition Division: Rejection of the opposition

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law:

— Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009, ⁽¹⁾ since the trade mark law principles of likelihood of confusion were not correctly applied

— Infringement of Article 75 of Regulation No 207/2009 due to breach of the duty to give reasons

Form of order sought

— annul the Commission Decision in Case COMP/38.636 — Rambus, dated 9 December 2009;

— order the Commission to pay the costs;

— grant such other relief as the Court considers appropriate.

Pleas in law and main arguments

In the present case, the applicant seeks the annulment of the Commission Decision adopted in the framework of Case COMP/38.636 — Rambus relating to a proceeding under Article 102 TFUE and Article 54 EEA, concerning the claiming of potentially abusive royalties for the use of certain patents for "Dynamic Random Access Memory" (DRAM). By the contested decision the Commission made binding upon Rambus certain commitments in accordance with Article 9 of the Council Regulation (EC) No 1/2003 ⁽¹⁾ and decided that there were no longer grounds for action. The applicant is the competitor of Rambus and it lodged a complaint for the initiation of proceedings against it.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

In support of its claims, the applicant puts forward three pleas in law.