

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 July 2010 in case R 1437/2009-4;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'HEART-CONTROL' for goods and services in classes 9, 10 and 44

Decision of the examiner: Refused the application for a Community trade mark

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Council Regulation No 207/2009, as the Board of Appeal misapplied the principle of non-discrimination to the facts in this case; in the alternative, infringement of Articles 7(1)(b) and 7(1)(c) of Council Regulation No 207/2009, as the Board of Appeal erred in its conclusion that the trade mark applied for does not possess sufficient inherent distinctiveness.

Action brought on 26 August 2010 — Milux v OHMI (VESICACONTROL)

(Case T-351/10)

(2010/C 288/100)

Language of the case: English

Parties

Applicant: Milux Holding SA (Luxembourg, Luxembourg) (represented by: J. Bojs, lawyer)

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

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 28 July 2010 in case R 1439/2009-4;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'VESICA-CONTROL' for goods and services in classes 9, 10 and 44

Decision of the examiner: Refused the application for a Community trade mark

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Council Regulation No 207/2009, as the Board of Appeal misapplied the principle of non-discrimination and equal treatment to the facts in this case; in the alternative, infringement of Articles 7(1)(b) and 7(1)(c) of Council Regulation No 207/2009, as the Board of Appeal erred in its conclusion that the trade mark applied for does not possess sufficient inherent distinctiveness.

Action brought on 26 August 2010 — Milux v OHMI (RECTALCONTROL)

(Case T-352/10)

(2010/C 288/101)

Language of the case: English

Parties

Applicant: Milux Holding SA (Luxembourg, Luxembourg) (represented by: J. Bojs, lawyer)

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

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 28 July 2010 in case R 1443/2009-4;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'RECTALCONTROL' for goods and services in classes 9, 10 and 44