

Other party to the proceedings before the Board of Appeal: Fercredit Servizi Finanziari SpA (Rome, Italy)

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 3 February 2011 in Appeal R 719/2010-1;
- Order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant.

Community trade mark concerned: Figurative mark 'f@ir Credit' for services in Class 36 (Registration No 6 947 766).

Proprietor of the mark or sign cited in the opposition proceedings: Fercredit Servizi Finanziari SpA.

Mark or sign cited in opposition: Figurative mark 'FERCREDIT' for goods and services in Classes 6, 7, 12, 14, 16, 18, 25, 35, 36, 39, 41, 42, 43 and 44 (Community trade mark Nr 3 749 801), the opposition being brought against the registration of services in Class 36.

Decision of the Opposition Division: Opposition upheld.

Decision of the Board of Appeal: Dismissal of the appeal.

Pleas in law: Breach of Article 8(1)(b) of Regulation (EC) No 207/2009, ⁽¹⁾ as there is no likelihood of confusion between the opposing marks.

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

Action brought on 20 April 2011 — Siemens v Commission

(Case T-223/11)

(2011/C 194/27)

Language of the case: English

Parties

Applicant: Siemens AG (Munich, Germany) (represented by: J. Risse, R. Harbst and H. Haller, lawyers)

Defendant: European Atomic Energy Community, represented by the European Commission

Form of order sought

- Order the defendant to pay to the applicant an amount of EUR 16 114 147 plus interest at a rate of 8 percentage points above the German base rate since 20 April 2011; and
- Order the defendant to reimburse the applicant, on a full indemnity basis, for attorneys' fees and other expenses incurred due to the present proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging that under the contract concluded with the defendant, the applicant is entitled to claim cost compensation for the additional costs incurred.
2. Second plea in law, alleging, in the alternative, that such cost compensation should be paid under German law, applicable to the contract, more specifically under Section 313 of the German Civil Code (BGB).

Action brought on 21 April 2011 — Caventa AG v OHIM — Anson's Herrenhaus (BERG)

(Case T-224/11)

(2011/C 194/28)

Language in which the application was lodged: German

Parties

Applicant(s): Caventa AG (Rekingen, Switzerland) (represented by: J. Krenzler, lawyer)

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

Other party to the proceedings before the Board of Appeal: Anson's Herrenhaus KG (Düsseldorf, Germany)

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 10 February 2011 in Case R 1494/2010-1;
- Order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Caventa AG.

Community trade mark concerned: Word mark 'BERG' for goods in Classes 25 and 28 (Application No 7 115 009).

Proprietor of the mark or sign cited in the opposition proceedings: Anson's Herrenhaus KG.

Mark or sign cited in opposition: Word mark 'Christian Berg' for goods and services in Classes 3, 18, 25 and 35 (Community trade mark No 3 383 676), the opposition being directed against registration for goods in Classes 25 and 28.

Decision of the Opposition Division: Opposition upheld.

Decision of the Board of Appeal: Appeal dismissed.

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009,⁽¹⁾ since there is no likelihood of confusion between the marks in question.

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

Action brought on 21 April 2011 — Caventa AG v OHIM — Anson's Herrenhaus (BERG)

(Case T-225/11)

(2011/C 194/29)

Language in which the application was lodged: German

Parties

Applicant(s): Caventa AG (Rekingen, Switzerland) (represented by: J. Krenzel, lawyer)

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

Other party to the proceedings before the Board of Appeal: Anson's Herrenhaus KG (Düsseldorf, Germany)

Form of order sought

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 10 February 2011 in Case R 740/2010-1;

— Order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Caventa AG.

Community trade mark concerned: Figurative mark 'BERG' for goods in Classes 25 and 28 (Application No 7 124 084).

Proprietor of the mark or sign cited in the opposition proceedings: Anson's Herrenhaus KG.

Mark or sign cited in opposition: Word mark 'Christian Berg' for goods and services in Classes 3, 18, 25 and 35 (Community trade mark No 3 383 676), the opposition being directed against registration for goods in Classes 25 and 28.

Decision of the Opposition Division: Opposition upheld.

Decision of the Board of Appeal: Appeal dismissed.

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009,⁽¹⁾ since there is no likelihood of confusion between the marks in question.

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

Action brought on 26 April 2011 — Wall v OHIM — Bluepod Media Worldwide (bluepod media)

(Case T-227/11)

(2011/C 194/30)

Language in which the application was lodged: English

Parties

Applicant: Wall AG (Berlin, Germany) (represented by: A. Nordemann, lawyer)

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

Other party to the proceedings before the Board of Appeal: Bluepod Media Worldwide Ltd (London, United Kingdom)

Form of order sought

— Partially annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 10 February 2011 in case R 301/2010-1; and

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