

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

Other party to the proceedings before the Board of Appeal: Etablissements Coquet SA (Saint Léonard de Noblat, France)

Form of order sought

The applicant claims that the General Court should:

- declare the present action, together with its annexes, admissible;
- annul the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 July 2011, in Case R 1054/2010-3;
- order the defendant to pay the costs.

Pleas in law and main arguments

Design in respect of which a declaration of invalidity has been sought: Design No 384.912-0001, representing a decorated service set; a coffee cup and saucer.

Proprietor of the Community design: the applicant.

Applicant for the declaration of invalidity of the Community design: Etablissements Coquet SA.

Grounds for the application for a declaration of invalidity: Infringement of Article 25(1)(f) of Regulation (EC) No 6/2002, since the Community design constitutes an unauthorised use of a work protected by the copyright legislation of a Member State.

Decision of the Cancellation Division: upheld the application for a declaration of invalidity.

Decision of the Board of Appeal: dismissed the action.

Pleas in law: Infringement of Article 25(1)(f) of Regulation (EC) No 6/2002 and Article 28(1)(b)(iii) of Regulation No 2245/2002, since the defendant has not sufficiently documented the protected work on which the application for a declaration of invalidity is based, nor provided details of its proprietorship, nor its object.

Action brought on 31 October 2011 — Viejo Valle v OHIM — Etablissements Coquet (Soup-plate with grooves)

(Case T-567/11)

(2012/C 32/56)

Language in which the application was lodged: Spanish

Parties

Applicant: Viejo Valle, SA (L'Olleria, Spain) (represented by: I. Temiño Cenicerros, lawyer)

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

Other party to the proceedings before the Board of Appeal: Etablissements Coquet SA (Saint Léonard de Noblat, France)

Form of order sought

The applicant claims that the General Court should:

- declare the present action, together with its annexes, admissible;
- annul the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 July 2011, in Case R 1055/2010-3;
- order the defendant to pay the costs.

Pleas in law and main arguments

Design in respect of which a declaration of invalidity has been sought: Design No 384.912-0009, representing a decorated service set; a soup-plate.

Proprietor of the Community design: the applicant.

Applicant for the declaration of invalidity of the Community trade mark: Etablissements Coquet SA.

Grounds for the application for a declaration of invalidity: Infringement of Article 25(1)(f) of Regulation (EC) No 6/2002, since the Community design constitutes an unauthorised use of a work protected by the copyright legislation of a Member State.

Decision of the Cancellation Division: upheld the application for a declaration of invalidity.

Decision of the Board of Appeal: dismissed the action.

Pleas in law: Infringement of Article 25(1)(f) of Regulation (EC) No 6/2002 and Article 28(1)(b)(iii) of Regulation No 2245/2002, since the defendant has not sufficiently documented the protected work on which the application for a declaration of invalidity is based, nor provided details of its proprietorship, nor its object.

Action brought on 15 November 2011 — Atlas Transport v OHIM — Hartmann (ATLAS TRANSPORT)

(Case T-584/11)

(2012/C 32/57)

Language in which the application was lodged: German

Parties

Applicant: Atlas Transport GmbH (Düsseldorf, Germany) (represented by: U. Hildebrandt, K. Schmidt-Hern and B. Weichhaus, lawyers)