

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The figurative mark 'BABY BAMBOLINA', for goods in class 28 — Community trade mark registration No 6403927

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

Applicant for the declaration of invalidity of the Community trade mark: The applicant

Grounds for the application for a declaration of invalidity: The party requesting the declaration of invalidity grounded its request pursuant to Article 53(1)(c) in conjunction with Article 8(4) of Council Regulation (EC) No 207/2009, and in Article 53(1)(a) in conjunction with Article 8(1)(b) and Article 8(2)(c) of Council Regulation (EC) No 207/2009

Decision of the Cancellation Division: Rejected the request for invalidity

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 53(1)(c) and Article 8(4) and in conjunction of Council Regulation No 207/2009, to the extent that the Board of Appeal has excluded the relevance of the mentioned catalogues referring to the period 2008-2009.

Action brought on 14 November 2011 — Solar-Fabrik v OHIM (Premium XL)

(Case T-582/11)

(2012/C 25/113)

Language of the case: German

Parties

Applicant: Solar-Fabrik AG für Produktion und Vertrieb von solartechnischen Produkten (Freiburg im Breisgau, Germany) (represented by M. Douglas, lawyer)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 September 2011 in Case R 245/2011-1;

— Order the Office for Harmonisation in the Internal Market to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'Premium XL' for goods in Classes 9 and 11

Decision of the Examiner: rejection of the application

Decision of the Board of Appeal: dismissal of the appeal

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009 as the mark applied for has distinctive character.

Action brought on 14 November 2011 — Solar-Fabrik v OHIM (Premium L)

(Case T-583/11)

(2012/C 25/114)

Language of the case: German

Parties

Applicant: Solar-Fabrik AG für Produktion und Vertrieb von solartechnischen Produkten (Freiburg im Breisgau, Germany) (represented by M. Douglas, lawyer)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 September 2011 in Case R 246/2011-1;

— Order the Office for Harmonisation in the Internal Market to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'Premium L' for goods in Classes 9 and 11

Decision of the Examiner: rejection of the application

Decision of the Board of Appeal: dismissal of the appeal

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009 as the mark applied for has distinctive character.