

directed against the trade mark applied for will be rejected in its entirety and therefore the registration of the trade mark applied for will be allowed in its entirety; and

- Order the defendant to bear its own costs and the costs incurred by the applicant in connection of the present proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark 'QTA S. JOSÉ DE PERAMANCA', for goods in class 33 — Community trade mark application No 7291669

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: Portuguese trade mark registration No 283684 of the figurative mark 'VINHO PÉRAMANCA TINTO', for goods in class 33; Portuguese trade mark registration No 308864 of the figurative mark 'VINHO PÉRAMANCA BRANCO', for goods in class 33; Portuguese trade mark application No 405797 of the figurative mark 'PÉR-AMANCA', for goods in class 33

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Upheld the opposition and the appeal, annulled the contested decision and rejected the CTM application for all the contested goods

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal: (i) erred in law in diminishing the overall weight of the numerous visual, aural and conceptual dissimilarities between the signs and in increasing and therefore overestimating the overall impact of the only common element they contain, the verbal elements 'PERA' and 'MANCA'; and (ii) misapplied the principles and the approach established by the General Court in case T-332/05 'TERRANUS/TERRA' to the case sub judice and wrongly considered that the degree of overall similarity between the confronted signs was sufficient to lead to a likelihood of confusion.

Action brought on 28 November 2011 — Mega Brands v OHIM — Diset (MAGNEXT)

(Case T-604/11)

(2012/C 32/64)

Language in which the application was lodged: English

Parties

Applicant: Mega Brands International, Luxembourg, Zweigniederlassung Zug (Zug, Suisse) (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: Diset, SA (Barcelona, Spain)

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 27 September 2011 in case R 1695/2010-4 and reject the opposition No B 1383639; and

- Order the defendant to bear the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark in black and white 'MAGNEXT', for goods in class 28 — Community trade mark application No 6588991

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: Spanish trade mark registration No 2550099 of the word mark 'MAGNET 4', for goods in class 28; Community trade mark registration No 3840121 of the figurative mark in blue and white 'Diset Magnetics', for goods and services in classes 16, 28 and 41

Decision of the Opposition Division: Upheld the opposition and rejected the Community trade mark application in its entirety

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 erred in its appreciation of the likelihood of confusion between the opposed mark and the applied mark.

Action brought on 29 November 2011 — Novartis v OHIM — Organic (BIOCERT)

(Case T-605/11)

(2012/C 32/65)

Language in which the application was lodged: English

Parties

Applicant: Novartis AG (Basel, Switzerland) (represented by: M. Douglas, lawyer)