



Reports of Cases

Case C-597/12 P

Isdin SA
v
Bial-Portela & C^a SA

(Appeal — Community trade mark — Opposition proceedings — Application for Community word mark ZEBEXIR — Earlier word mark ZEBINIX — Relative grounds for refusal — Regulation (EC) No 207/2009 — Article 8(1)(b) — Duty to state reasons)

Summary — Judgment of the Court (Seventh Chamber), 17 October 2013

1. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Criteria for assessment*

(Council Regulation No 207/2009, Art. 8(1)(b))

2. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Similarity of the marks concerned — Criteria for assessment*

(Council Regulation No 207/2009, Art. 8(1)(b))

3. *Appeals — Grounds — Inadequate statement of reasons — Reliance by the General Court on implied reasoning — Lawfulness — Conditions*

(Statute of the Court of Justice, Arts 36 and 53, first para.)

4. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Separate examination of the grounds for refusal in relation to each of the goods or services covered by the application for registration — Duty to state the reasons for refusing to register — Scope*

(Council Regulation No 207/2009, Arts 8(1) and 73)

1. See the text of the decision.

(see paras 17, 18)

2. See the text of the decision.

(see paras 19, 20)

3. The duty incumbent upon the General Court under Article 36 and the first paragraph of Article 53 of the Statute of the Court of Justice of the European Union to state reasons for its judgments does not require the General Court to provide an account that follows exhaustively and one by one all the arguments articulated by the parties to the case. The grounds stated may therefore be implicit, on condition that they enable the persons concerned to know the reasons for which a particular ruling was made and provide the competent court with sufficient material for it to exercise its power of review.

(see para. 21)

4. An examination of the grounds for refusal must be carried out in relation to each of the goods or services for which trade mark registration is sought. Where the same ground of refusal is given for a category or group of goods or services, the reasoning may be general for all of the goods or services concerned. However, such a power extends only to goods and services which are interlinked in a sufficiently direct and specific way, to the point where they form a sufficiently homogeneous category or group of goods or services. The mere fact that the goods or services in question come within the same class of the Nice Agreement is not sufficient for that purpose, since the classes often contain a wide variety of goods or services which are not necessarily interlinked in a sufficiently direct and specific way. Where the General Court itself has drawn a distinction between goods within the same class of the Nice Agreement on the basis of the conditions under which they are marketed, it is incumbent on it to set out reasons for its decision with regard to each group of goods which it established within that class.

(see paras 25-28)