

- All future acts amending or supplementing Decision 2011/782/CFSP and Council Regulation No 36/2012
- annul the Council's decision in its letter of 16 March 2012 addressed to the applicant, in so far as it maintains his inclusion on the contested lists;
- order the Council to pay the costs.

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 an infringement of fundamental rights and procedural guarantees, in particular rights, the duty to state reasons and the principle of effective judicial protection, in so far as the applicant did not receive formal notification of his inclusion on the list of persons sanctioned and or the grounds for his inclusion in the contested acts and were not sufficient to justify the sanctions.
2. Second plea in law, alleging an infringement of the right to property and economic freedom.

Action brought on 15 May 2012 — Vila Vita Hotel und Touristik v OHIM — Viavita (VIAVITA)

(Case T-204/12)

(2012/C 217/53)

Language in which the application was lodged: English

Parties

Applicant: Vila Vita Hotel und Touristik GmbH (Frankfurt, Germany) (represented by: G. Schoenen and V. Töbelmann, lawyers)

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

Other party to the proceedings before the Board of Appeal: Viavita SASU (Paris, France)

Form of order sought

- Overturn the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 March 2012 in case R 419/2011-1;
- Order OHIM to bear the costs of the applicant; and
- In the event that the other party to the proceedings before the Board of Appeal joins in these proceedings as an intervening party, order it to bear its own costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'VIAVITA', for services in classes 36, 37, 38, 39, 40, 41, 42, 43, 44 and 45 — Community trade mark application No 52201504

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Austrian trade mark registration No 154631 of the word mark 'VILA VITA PARC', for services in classes 39 and 42; German trade mark registration No 2097301 of the figurative mark 'VILA VITA TOURISTIK GMBH', for goods and services in classes 3, 35, 37, 39 et 41

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Annulled the contested decision and rejected the opposition

Pleas in law: Infringement of Article 42(2) and (3) of Council Regulation No 207/2009.

Action brought on 14 May 2012 — Shark v OHIM — Monster Energy (UNLEASH THE BEAST!)

(Case T-217/12)

(2012/C 217/54)

Language in which the application was lodged: English

Parties

Applicant: Shark AG (Innsbruck, Austria) (represented by: D. Campbell, Barrister, and P. Strickland, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Monster Energy Company (Corona, United States)

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 1 March 2012 in case R 360/2011-1; and
- Order the Office and the other party to the proceedings before the Board of Appeal to bear their own costs and pay those of the applicant.