

— Order OHIM to pay the costs of the applicant.

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 figurative mark 'PROFLEX' for goods and services in classes 9, 12 and 25

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

Mark or sign cited in opposition: German trade mark registration No 39628817 for the word mark 'PROFEX', for goods in classes 6, 8, 9, 11, 12, 16, 17 and 21

Decision of the Opposition Division: Partially upheld the opposition

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

Pleas in law: Infringement of Articles 42(2) and (3) of Council Regulation (EC) No 207/2009 and Rule 22 of Commission Regulation (EC) no 2868/95.

Action brought on 28 June 2012 — Cartoon Network v OHIM — Boomerang TV (BOOMERANG)

(Case T-285/12)

(2012/C 273/22)

Language in which the application was lodged: English

Parties

Applicant: The Cartoon Network, Inc. (Wilmington, United States) (represented by: I. Starr, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Boomerang TV, SA (Madrid, Spain)

Form of order sought

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 April 2012 in case R 699/2011-2; and

— Order the defendant to pay to the applicant, the applicant's costs of and occasioned by this appeal.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'BOOMERANG' for services in classes 38 and 41

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: Community trade mark registration No 1160050 of the figurative mark 'Boomerang TV', for services in class 41

Decision of the Opposition Division: Upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation (EC) No 207/2009.

Action brought on 26 June 2012 — EI du Pont de Nemours v OHIM — Zueco Ruiz (ZYTEL)

(Case T-288/12)

(2012/C 273/23)

Language in which the application was lodged: English

Parties

Applicant: EI du Pont de Nemours and Company (Wilmington, United States) (represented by: E. Armijo Chávarri, lawyer)

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

Other party to the proceedings before the Board of Appeal: Enrique Zueco Ruiz (Zaragoza, Spain)

Form of order sought

— Set aside the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 March 2012 in case R 464/2011-2; and

— Order that the costs of the proceedings be borne by the defendant.

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 figurative mark 'ZYTEL' for goods and services in classes 9, 12 and 37

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

Mark or sign cited in opposition: Community trade mark registration No 369314, of the word mark 'ZYTEL', for goods in classes 1 and 17; Well-known mark 'ZYTEL', for goods in classes 1 and 17

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 8(1)(b) and Article 8(5) of Council Regulation (EC) No 207/2009.

Action brought on 3 July 2012 — Deutsche Bank v OHIM (Passion to Perform)

(Case T-291/12)

(2012/C 273/24)

Language of the case: English

Parties

Applicant: Deutsche Bank (Frankfurt am Main, Germany) (represented by: R. Lange, T. Götting and G. Hild, lawyers)

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

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 24 April 2012 in case R 2233/2011-4; and

— Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: International registration designating the European Community of the word mark 'Passion to Perform' for goods and services in classes 35, 36, 38, 41 and 42 — Community trade mark application No W 1066295

Decision of the Examiner: Refused protection of the mark for the European Community

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1)(b) of Council Regulation No 207/2009.

Action brought on 3 July 2012 — Mega Brands v OHIM — Diset (MAGNEXT)

(Case T-292/12)

(2012/C 273/25)

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 24 April 2012 in case R 1722/2011-4 and reject the opposition No B 1681447; 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 word mark 'MAGNEXT', for goods in class 28 — Community trade mark application No 8990591

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 'Diset Magnetics', for goods and services in classes 16, 28 and 41

Decision of the Opposition Division: Upheld the opposition and rejected the 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 (EC) No 207/2009.