

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Rosian Express SRL to pay the costs.*

⁽¹⁾ OJ C 367, 14.12.2013.

Judgment of the General Court of 15 October 2015 — Wolverine International v OHIM — BH Store (cushe)

(Case T-642/13) ⁽¹⁾

(Community trade mark — Invalidity proceedings — International registration designating the European Community — Figurative mark cushe — Earlier national word mark SHE and figurative mark she — Relative ground for refusal — Genuine use of the earlier mark — Article 57(2) and (3) of Regulation (EC) No 207/2009 — Likelihood of confusion — Article 8(1)(b) of Regulation No 207/2009)

(2015/C 398/47)

Language of the case: English

Parties

Applicant: Wolverine International, LP (George Town, Cayman Islands, United Kingdom) (represented by: M. Plesser and R. Heine, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: M. Fischer, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: BH Store BV (Curaçao, Curaçao, Autonomous Territory of the Netherlands) (represented by: T. Dolde, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 30 September 2013 (Case R 1269/2012-4) concerning invalidity proceedings between BH Store BV and Wolverine International, LP.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Wolverine International, LP to pay the costs, apart from those incurred by BH Store BV before the Cancellation Division of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);*
3. *Rejects the claim of BH Store relating to the costs it incurred before the Cancellation Division.*

⁽¹⁾ OJ C 85, 22.3.2014.

Judgment of the General Court of 7 October 2015 — The Smiley Company v OHIM (Shape of a smiley with heart-shaped eyes)

(Case T-656/13) ⁽¹⁾

(Community trade mark — Application for a three-dimensional Community trade mark — Shape of a smiley with heart-shaped eyes — Absolute ground for refusal — Lack of distinctive character — Article 7 (1)(b) of Regulation (EC) No 207/2009)

(2015/C 398/48)

Language of the case: English

Parties

Applicant: The Smiley Company SPRL (Brussels, Belgium) (represented by: A. Freitag and C. Albrecht, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos and A. Folliard-Monguiral, acting as Agents)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 8 October 2013 (Case R 997/2013-4) concerning an application for registration as a Community trade mark of a three-dimensional sign comprising the shape of a smiley with heart-shaped eyes.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders The Smiley Company SPRL to pay the costs.*

⁽¹⁾ OJ C 61, 1.3.2014.