

Pleas in law and main arguments

Registered Community trade design in respect of which a declaration of invalidity has been sought: The trade design 'Umbrellas' — Registered Community design No 000579032-0002

Proprietor of the Community trade design: The applicant

Applicant for the declaration of invalidity of the Community trade design: Impliva BV

Grounds for the application for a declaration of invalidity: The application for a declaration of invalidity was based on Articles 4 and 9 Council Regulation No 6/2002

Decision of the Cancellation Division: Upheld the application for a declaration of invalidity

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1) and Articles 6 in connection with 25 (1)(b) of Council Regulation No 6/2002.

Action brought on 21 January 2013 — Cactus/OHIM — Del Rio Rodríguez (CACTUS OF PEACE CACTUS DE LA PAZ)

(Case T-24/13)

(2013/C 101/43)

Language in which the application was lodged: English

Parties

Applicant: Cactus SA (Bertrange, Luxembourg) (represented by: K. Manhaeve, lawyer)

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

Other party to the proceedings before the Board of Appeal: Isabel Del Rio Rodríguez (Malaga, Spain)

Form of order sought

The applicant claims that the Court should:

— Annul the Decision of the Second Board of Appeal of 19 October 2012;

— Order the Defendant and — if applicable — Isabel Del Rio Rodríguez to jointly and severally pay all the 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 figurative mark 'CACTUS OF PEACE CACTUS DE LA PAZ', for goods and services in classes 31, 39 and 44 — Community trade mark application No 8 489 643

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

Mark or sign cited in opposition: Community trade mark registration No 963 694 of the word mark 'CACTUS' for goods and services in classes 2, 3, 5, 6, 7, 8, 9, 11, 16, 18, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 39, 41 and 42

Decision of the Opposition Division: Opposition upheld in part and application rejected in part

Decision of the Board of Appeal: Annulment of the appealed decision and rejection of the opposition in its entirety

Pleas in law: Infringement of Articles 76(1) and (2) and 75 of Council Regulation No 207/2009.

Action brought on 24 January 2013 — Pedro Group/OHIM — Cortefiel (PEDRO)

(Case T-38/13)

(2013/C 101/44)

Language in which the application was lodged: English

Parties

Applicant: Pedro Group Pte Ltd (Singapore, Singapore) (represented by: B. Brandreth, lawyer)

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

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

Form of order sought

The applicant claims that the Court should:

— Annul partially the Fourth Board of Appeal's Decision of 26 November 2012 (Case R 0271/2011-4): Annulment of that part of the Decision that annulled part of the decision of the Opposition Division dated 17 December 2010 and rejected the Applicant's CTM application for certain goods in class 25;

— Order that the respondent pays the applicant its costs incurred before the Board of Appeal and the General Court.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'PEDRO', for goods and services in classes 18, 25 and 35 — Community trade mark application No 7 541 857

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 1 252 899 of the figurative mark in black and white 'Pedro del Hierro' for goods and services in classes 3, 9, 14, 18, 25, 35, and 42 and the International registration No 864 740 claimed to have effect in Bulgaria, Spain and Romania for the figurative mark in black and white 'Pedro del Hierro' for goods and services in classes 3, 14, 25 and 35

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

Decision of the Board of Appeal: Annulled the contested decision as far as it rejected the opposition for goods in class 25, rejected the application for these goods and dismissed the appeal for the remainder

Pleas in law: Infringement of Articles 8(1)(b), 15 and 42(2) of Council Regulation No 207/2009.

Action brought on 25 January 2013 — Cezar/OHIM — Poli-Eco (Skirting boards)

(Case T-39/13)

(2013/C 101/45)

Language in which the application was lodged: English

Parties

Applicant: Cezar Przedsiębiorstwo Produkcyjne Dariusz Bogdan Niewiński (Elk, Poland) (represented by: M. Nentwig and G. Becker, lawyers)

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

Other party to the proceedings before the Board of Appeal: Poli-Eco Tworzywa Sztuczne sp. z o.o. (Szprotawa, Poland)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of November 8, 2012 (case R 1512/2010-3);

— Order the defendant to bear the costs.

Pleas in law and main arguments

Registered Community trade design in respect of which a declaration of invalidity has been sought: The trade design 'skirting boards' — Registered Community design No 70 438-0002

Proprietor of the Community trade design: The applicant

Applicant for the declaration of invalidity of the Community trade design: The other party to the proceedings before the Board of Appeal

Grounds for the application for a declaration of invalidity: The application for a declaration of invalidity was based on a lack of novelty and individual character pursuant to Article 25 (1)(b) in conjunction with Articles 4 to 6 of Council Regulation No 6/2002

Decision of the Cancellation Division: Declared the contested RCD invalid

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 25(1)(b), 63(1) and 62(1) of the Council Regulation No 6/2002.

Action brought on 4 February 2013 — Efaq Trade Mark Company v OHIM (FICKEN)

(Case T-52/13)

(2013/C 101/46)

Language of the case: German

Parties

Applicant: Efaq Trade Mark Company GmbH & Co. KG (Schemmerhofen, Germany) (represented by M. Wekwerth, lawyer)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 18 October 2012 in Case R 493/2012-1;

— Order the defendant to pay the costs including those incurred in the appeal proceedings.