

Action brought on 13 February 2013 — Walcher Meßtechnik v OHIM (HIPERDRIVE)**(Case T-95/13)**

(2013/C 108/85)

*Language of the case: German***Parties***Applicant:* Walcher Meßtechnik GmbH (Kirchzarten, Germany) (represented by S. Walter, 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 13 December 2012 in Case R 1779/2012-1;

— Order OHIM to pay the costs including those incurred in the course of the appeal proceedings.

Pleas in law and main arguments*Community trade mark concerned:* the word mark 'HIPERDRIVE' for goods in Classes 7 and 9*Decision of the Examiner:* the application was rejected*Decision of the Board of Appeal:* the appeal was dismissed in part*Pleas in law:*

— Infringement of Article 7(1)(c) of Regulation No 207/2009

— Infringement of Article 7(1)(b) of Regulation No 207/2009

Action brought on 19 February 2013 — Ludwig Schokolade v OHIM — Immergut (TrinkFix)**(Case T-105/13)**

(2013/C 108/86)

*Language in which the application was lodged: German***Parties***Applicant:* Ludwig Schokolade GmbH & Co. KG (Bergisch Gladbach, Germany) (represented by: S. Fischer and A. Brodkorb, lawyers)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal:* Immergut GmbH & Co. KG (Elsdorf, Germany)**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 13 December 2012 in Case R 34/2012-1;

— order OHIM to pay the costs of the proceedings, including those incurred during the appeal proceedings before it.

Pleas in law and main arguments*Applicant for a Community trade mark:* The applicant*Community trade mark concerned:* Word mark 'TrinkFix' for goods in Classes 29, 30 and 32 — Community trade mark application No 9 045 634*Proprietor of the mark or sign cited in the opposition proceedings:* Immergut GmbH & Co. KG*Mark or sign cited in opposition:* National and Community word mark 'Drinkfit' for goods in Classes 29 and 32*Decision of the Opposition Division:* opposition upheld in part*Decision of the Board of Appeal:* appeal dismissed*Pleas in law:* infringement of Article 42(2) and (3) of Regulation No 207/2009 and of Article 8(1)(b) of Regulation No 207/2009.