

GENERAL COURT

Action brought on 16 May 2013 — Brainlab v OHIM (Curve)

(Case T-266/13)

(2013/C 215/18)

Language of the case: German

Parties

Applicant: Brainlab AG (Feldkirchen, Germany) (represented by J. Bauer, 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 Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 March 2013 in Case R 2073/2012-4 and the decision of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 September 2012 in registration procedure No 008608473;

— Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'Curve' for goods and services in Classes 9, 10, 35, 38, 41, 42, 44 and 45 — Community trade mark application No 8 608 473

Decision of the Examiner: the application was rejected

Decision of the Board of Appeal: the appeal was dismissed

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

Action brought on 17 May 2013 — El Corte Inglés v OHIM — Gaffashion (BAUSS)

(Case T-267/13)

(2013/C 215/19)

Language in which the application was lodged: Spanish

Parties

Applicant: El Corte Inglés, SA (Madrid, Spain) (represented by: E. Seijo Veiguela and J. L. Rivas Zurdo, lawyers)

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

Other party to the proceedings before the Board of Appeal: Gaffashion — Comércio de Acessórios de Moda, Lda (Viana do Castelo, Portugal)

Form of order sought

The applicant claims that the General Court should:

— annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 February 2013 in Case R 2295/2011-2, in so far as, by dismissing the appeal brought by the applicant, it upheld the decision of the Opposition Division to grant in part the Community trade mark No 9 093 733 'BAUSS' (word);

— order the party or parties opposing this action to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Gaffashion — Comércio de Acessórios de Moda, Lda

Community trade mark concerned: Word mark 'BAUSS' for goods and services in Classes 18, 25 and 35 — Community trade mark application No 9 093 733

Proprietor of the mark or sign cited in the opposition proceedings: Applicant

Mark or sign cited in opposition: Figurative marks with word elements 'BASS 3 TRES', 'BASS 10 DIEZ' and 'BASS 20 VEINTE' for goods and services in Classes 18, 25 and 35

Decision of the Opposition Division: Opposition rejected

Decision of the Board of Appeal: Appeal dismissed

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

Action brought on 22 May 2013 — Nutrexpa v OHIM — Kraft Foods Italia Intellectual Property (Cuétara MARÍA ORO)

(Case T-271/13)

(2013/C 215/20)

Language in which the application was lodged: Spanish

Parties

Applicant: Nutrexpa, SL (Barcelona, Spain) (represented by: J. Grau Mora, M. Ferrándiz Avendaño and Y. Sastre Canet, lawyers)

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

Other party to the proceedings before the Board of Appeal: Kraft Foods Italia Intellectual Property Srl (Milan, Italy)

Form of order sought

The applicant claims that the General 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 March 2013 in Case R 1285/2012-1, whereby it rejected the application for registration of Community figurative trade mark No 9 056 045 ‘Cuétara MARÍA ORO’ for ‘Preserved and dried fruits; preserved, dried and cooked vegetables’ (Class 29) and ‘Flour and preparations made from cereals, bread, pastry and confectionery, ices; biscuits’ (Class 30), which should consequently be registered by OHIM;
- order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: Figurative mark containing the word elements ‘Cuétara MARÍA ORO’ for goods in Classes 5,

29 and 30 — Application for registration of Community trade mark No 9 056 045

Proprietor of the mark or sign cited in the opposition proceedings: Kraft Foods Italia Intellectual Property Srl

Mark or sign cited in opposition: National and Community figurative marks containing the word element ‘ORO’ for goods in Classes 29 and 30

Decision of the Opposition Division: Opposition upheld in part

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Breach of Article 8(1)(b) of Regulation No 207/2009

Action brought on 24 May 2013 — Golam v OHIM — meta Fackler Arzneimittel (METABIOMAX)

(Case T-281/13)

(2013/C 215/21)

Language in which the application was lodged: Greek

Parties

Applicant: Sofia Golam (Athens, Greece) (represented by: N. Trovas, lawyer)

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

Other party to the proceedings before the Board of Appeal: meta Fackler Arzneimittel GmbH (Springe, Germany)

Form of order sought

The applicant claims that the General Court should:

- uphold the present action, so as to annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 March 2013 in Case R 2022/2011-2;
- reject the opposition of the other party before the Board of Appeal and grant the application lodged by the applicant in its entirety;
- order the other party before the Board of Appeal to pay the applicant the costs of the present proceedings.