

Pleas in law and main arguments

Applicant for a Community trade mark: Applicant

Community trade mark concerned: Word mark 'ELECTROLINERA' for goods and services in Classes 4, 35, 37 and 39 — Community trade mark application No 9 548 884

Proprietor of the mark or sign cited in the opposition proceedings: Josep María Adell Argiles

Mark or sign cited in opposition: National word mark 'ELECTROLINERA' for goods in Classes 6, 9 and 12

Decision of the Opposition Division: Opposition rejected in part

Decision of the Board of Appeal: Appeal upheld in part, decision of the Opposition Division annulled in part and, therefore, more extensive refusal of the Community trade mark application

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

Action brought on 7 June 2013 — Enosi Mastichoparaggon/OHIM — Gaba International (ELMA)

(Case T-309/13)

(2013/C 226/31)

Language in which the application was lodged: English

Parties

Applicant: Enosi Mastichoparaggon Chiou (Chios, Greece) (represented by: A. Malamis, lawyer)

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

Other party to the proceedings before the Board of Appeal: Gaba International Holding AG (Hamburg, Germany)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fourth Board of Appeal of 26 March 2013, in Case R 1539/2012-4;
- Order the Office and other party (opponent before the Opposition Division and appellee before the OHIM's Board of Appeal) to bear their own costs and pay those of the CTM applicant (applicant for annulment).

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'ELMA' for goods in class 5 — International registration designating the European Community 900 845

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 of the word mark 'ELMEX' for goods in classes 3, 5 and 21

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 No 207/2009.

Action brought on 12 June 2013 — Portugal v Commission

(Case T-314/13)

(2013/C 226/32)

Language of the case: Portuguese

Parties

Applicant: Portuguese Republic (represented by: L. Inez Fernandes, Agent, M. Gorgão-Henriques and J. da Silva Sampaio, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- annul Articles 1 and 2 of Commission Decision C(2013) 1870 final;
- declare that Regulation (EC) No 16/2003⁽¹⁾ is not applicable in the present case, in particular Article 7 thereof, since it infringes essential procedural requirements and Regulation (EC) No 1164/94⁽²⁾ or, in any event, general principles of European Union law;
- declare that the European Commission is required to pay the outstanding balance;
- in the alternative:
 - (a) declare that the limitation period has expired in respect of the procedure for recovering sums already paid and the right to retain the outstanding balance;