

Form of order sought

- First, alter the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 May 2013 in Case R 1215/2011-4 to the effect that the action brought by the applicants before the Board of Appeal is well founded and, consequently, that the opposition filed by the applicants should be upheld;
- In the alternative, annul in its entirety the decision of the Fourth Board of Appeal of OHIM of 29 May 2013 in Case R 1215/2011-4; and
- Order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Carolus C.

Community trade mark concerned: Word mark 'English pink' for goods in Class 31 — Application for Community trade mark No 8 610 768

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

Mark or sign cited in opposition: Word mark 'PINK LADY' and figurative marks containing the word elements 'Pink lady' for goods in Classes 16, 29, 30, 31 and 32

Decision of the Opposition Division: Rejection of the opposition

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law:

- Infringement of the principle of *res judicata*;
- Infringement of the general principles of legal certainty, sound administration and protection of legitimate expectations;
- Infringement of Article 75 of Regulation No 207/2009;
- Infringement of Article 76 of Regulation No 207/2009;
- Infringement of Article 8(1)(b) of Regulation No 207/2009;
- Infringement of Article 8(5) of Regulation No 207/2009.

Action brought on 22 July 2013 — Innovation First/OHIM (NANO)

(Case T-379/13)

(2013/C 260/89)

Language of the case: English

Parties

Applicant: Innovation First, Inc. (Greenville, United States) (represented by: J. Zecher, 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 defendant of April 19, 2013 in the matter R 1271/2012-1;
- Order the defendant to pay the costs of the proceedings, including the cost of the appeal proceeding before the defendant.

Pleas in law and main arguments

Community trade mark concerned: Word mark 'NANO' for goods and services in classes 9, 28 and 41 — Community trade mark application No 9 157 421

Decision of the Examiner: Rejected the CTM application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 75 and 37(3) of Council Regulation No 207/2009, Rule 50(2)(h) of Regulation No 2868/95 and Articles 76 and 7(1)(b) and (c) of Council Regulation No 207/2009.

Action brought on 26 July 2013 — Intermark/OHIM — Coca-Cola (RIENERGY Cola)

(Case T-384/13)

(2013/C 260/90)

Language in which the application was lodged: English

Parties

Applicant: Intermark Srl (Steii, Romania) (represented by: Á. László, lawyer)

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

Other party to the proceedings before the Board of Appeal: The Coca-Cola Company (Atlanta, United States)

Form of order sought

The applicant claims that the Court should:

- Uphold the application, alter the contested decision of the defendant, order the dismissal of the opposition and order the registration of the applicant's sign as a trade mark in its entirety;