

**Judgment of the General Court of 11 December 2013 —
Smartbook v OHIM (SMARTBOOK)**

(Case T-123/12) ⁽¹⁾

**(Community trade mark — Application for Community word
mark SMARTBOOK — Absolute ground for refusal — Lack
of distinctiveness — Article 7(1)(b) of Regulation (EC)
No 207/2009)**

(2014/C 31/16)

Language of the case: German

Parties

Applicant: Smartbook AG (Offenburg, Germany) (represented by: C. Milbradt, A. Schwarz and F. Reiling, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Walicka, acting as Agent)

Intervener in support of the defendant: Qualcomm, Inc. (Dover, Delaware, United States) (represented by: A. Renck, A. Leister and V. von Bomhard, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 15 December 2011 (Case R 799/2011-2), concerning an application for registration of the word sign SMARTBOOK as a Community trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Smartbook AG to pay the costs.

⁽¹⁾ OJ C 157, 2.6.2012.

**Judgment of the General Court of 11 December 2013 —
Eckes-Granini v OHIM — Panini (PANINI)**

(Case T-487/12) ⁽¹⁾

**(Community trade mark — Opposition proceedings — Appli-
cation for the Community figurative mark PANINI — Earlier
national and Community word marks GRANINI — Relative
ground for refusal — No likelihood of confusion — Article
8(1)(b) of Regulation (EC) No 207/2009)**

(2014/C 31/17)

Language of the case: English

Parties

Applicant: Eckes-Granini Group GmbH (Nieder-Olm, Germany) (represented by: W. Berlit, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: L. Rampini, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Panini SpA (Modène, Italy) (represented by F. Terrano, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 6 September 2012 (Case R 2393/2011-2) relating to opposition proceedings between Eckes-Granini Group GmbH and Panini SpA.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Eckes-Granini Group GmbH to pay the costs.

⁽¹⁾ OJ C 26, 26.1.2013

**Action brought on 1 October 2013 — Société européenne
des chaux et liants v ECHA**

(Case T-540/13)

(2014/C 31/18)

Language of the case: French

Parties

Applicant: Société européenne des chaux et liants (Bourgoin-Jallieu, France) (represented by: J. Dezarnaud, lawyer)

Defendant: European Chemicals Agency (ECHA)

Form of order sought

— Uphold the applicant's request to be fully relieved of the fine of which it has been notified.

Pleas in law and main arguments

The applicant requests that it be relieved of the administrative charge imposed by Decision SME (2013) 1665 of the ECHA which found that the applicant does not fulfil the conditions for eligibility for the reduced fee envisaged for small-sized enterprises, in the light of its corrective declaration submitted after the initiation by the ECHA of the verification procedure relating to the size of the undertaking.

In support of its action, the applicant relies on a certain number of pleas in law:

- the fact that the sanction adopted is disproportionate to the error which can be imputed to it;
- the fact that it corrected its declaration when first requested by the ECHA;
- the fact that it can be excused for misinterpreting an extremely technical document drafted in a language other than its own;
- the illogical nature of an automatic sanction.

Action brought on 25 October 2013 — Hostel Tourist World v OHIM — WRI Nominees (Hostel Tourist World.com)

(Case T-566/13)

(2014/C 31/19)

Language in which the application was lodged: Spanish

Parties

Applicant: Hostel Tourist World, SL (Seville, Spain) (represented by: J.M. Bartrina Díaz, lawyer)

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

Other party to the proceedings before the Board of Appeal: WRI Nominees Ltd (Luxembourg, Luxembourg)

Form of order sought

The applicant claims that the Court should:

- annul OHIM's decision in so far as it upholds the appeal lodged by WRI Nominees Ltd, concerning the cancellation or invalidity of Community trade mark No 7 241 862 HOSTELTOURISTWORLD for Classes 39 and 43 in the International Classification;
- pursuant to Article 65(2) of Regulation No 207/2009, dismiss the appeal lodged by WRI Nominees Ltd in relation to the invalidity of Community trade mark No 7 241 862 'HOSTELTOURISTWORLD.COM' for Classes 35, 39 and 43 in the International Classification, or, in the alternative, order OHIM to take the measures necessary to comply with the judgment of the Court delivered in accordance with the terms indicated in the application; and

— order OHIM to pay the costs of the present proceedings.

Pleas in law and main arguments

Community trade mark concerned, in respect of which an application for a declaration of invalidity was made: Figurative mark 'Hostel-TouristWorld.com' for services in Classes 35, 39 and 43 — Registered Community trade mark No 7 241 862

Proprietor of the mark: The applicant

Applicant for a declaration of invalidity: WRI Nominees Ltd

Grounds for the application for a declaration of invalidity: Infringement of Article 8(1)(b) of Regulation No 207/2009, read in conjunction with Article 53(1)(a) thereof, and of Article 8(4) of Regulation No 207/2009, read in conjunction with Article 53(1)(c) thereof

Decision of the Cancellation Division: Application dismissed

Decision of the Board of Appeal: Appeal of WRI Nominees Ltd upheld in part and decision of the Cancellation Division annulled in part

Pleas in law:

— Infringement of Articles 63 and 64 of Regulation No 207/2009;

— Infringement of Article 8(1)(b) of Regulation No 207/2009, read in conjunction with Article 53(1)(a) thereof.

Action brought on 30 October 2013 — Lesaffre et Compagnie v OHIM — Louis Baking Company (BAKING CENTER BY TECHNOLINE)

(Case T-575/13)

(2014/C 31/20)

Language in which the application was lodged: French

Parties

Applicant: Lesaffre et Compagnie (Paris, France) (represented by: T. De Haan and P. Péters, lawyers)

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

Other party to the proceedings before the Board of Appeal: Louis Baking Company, SL (Girona, Spain)