

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 16 January 2014 (Case R 836/2013-1) concerning an application for registration as a Community trade mark of a three-dimensional sign comprising the shape of a face with horns.

Operative part of the judgment

The Court:

1. *Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 16 January 2014 (Case R 836/2013-1) with regard to the refusal to register the mark applied for in respect of 'preserved, frozen, dried and cooked fruits and vegetables; milk products';*
2. *Dismisses the action as to the remainder;*
3. *Orders the parties to bear their own costs.*

⁽¹⁾ OJ C 282, 25.8.2014.

**Judgment of the General Court of 7 October 2015 — The Smiley Company v OHIM (Shape of a face)
(Case T-243/14) ⁽¹⁾**

(Community trade mark — Application for a three-dimensional Community trade mark — Shape of a face — Absolute ground for refusal — Distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 398/62)

Language of the case: English

Parties

Applicant: The Smiley Company SPRL (Brussels, Belgium) (represented by: A. Freitag and C. Albrecht, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos and A. Folliard-Monguiral, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 16 January 2014 (Case R 837/2013-1) concerning an application for registration as a Community trade mark of a three-dimensional sign comprising the shape of a face.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 16 January 2014 (Case R 837/2013-1) with regard to the refusal to register the mark applied for in respect of 'preserved, frozen, dried and cooked fruits and vegetables; milk products';
2. Dismisses the action as to the remainder;
3. Orders the parties to bear their own costs.

⁽¹⁾ OJ C 282, 25.8.2014.

Judgment of the General Court of 7 October 2015 — The Smiley Company v OHIM (Shape of a face in the form of a star)

(Case T-244/14) ⁽¹⁾

(Community trade mark — Application for a three-dimensional Community trade mark — Shape of a face in the form of a star — Absolute ground for refusal — Distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

(2015/C 398/63)

Language of the case: English

Parties

Applicant: The Smiley Company SPRL (Brussels, Belgium) (represented by: A. Freitag and C. Albrecht, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos and A. Folliard-Monguiral, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 16 January 2014 (Case R 838/2013-1) concerning an application for registration as a Community trade mark of a three-dimensional sign comprising the shape of a face in the form of a star.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 16 January 2014 (Case R 838/2013-1) with regard to the refusal to register the mark applied for in respect of 'preserved, frozen, dried and cooked fruits and vegetables; milk products';