

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';

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 15 October 2015 — Promarc Technics v OHIM — PIS (Part of door)

(Case T-251/14) ⁽¹⁾

(Community design — Invalidity proceedings — Registered Community design representing part of a door — Earlier international design consisting of an American patent — Ground of invalidity — No individual character — No different overall impression — Evidence that the earlier design was made available to the public — Circles specialised in the sector concerned — Informed user — Degree of freedom of the designer — Article 6, Article 7(1) and Article 25(1)(b) of Regulation (EC) No 6/2002)

(2015/C 398/64)

Language of the case: Polish

Parties

Applicant: Promarc Technics s.c. Tomasz Pokrywa, Rafał Natorski (Zabierzów, Poland) (represented by: J. Radłowski, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Petrycki i Sorys sp.j. (PIS) (Jasło, Poland) (represented by: D. Kulig, lawyer)

Re:

Action brought against the decision of the Third Board of Appeal of OHIM of 29 January 2014 (Case R 1464/2012-3) concerning invalidity proceedings between Petrycki i Sorys sp.j. (PIS) and Promarc Technics s.c. Tomasz Pokrywa, Rafał Natorski.

Operative part of the judgment

The Court:

1. Dismisses the action.
2. Orders Promarc Technics s.c. Tomasz Pokrywa, Rafał Natorski to pay the costs

⁽¹⁾ OJ C 212, 7.7.2014.