

GENERAL COURT

Judgment of the General Court of 4 October 2016 — Lidl Stiftung v EUIPO — Horno del Espinar (Castello)

(Case T-549/14) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for the EU word mark Castello — Earlier national and EU figurative marks Castelló — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2016/C 419/45)

Language of the case: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: M. Wolter, M. Kefferpütz and A. Marx, lawyers)

Defendant: European Union Intellectual Property Office (represented initially by P. Geroulakos and D. Botis, subsequently by D. Botis and lastly by D. Gája, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Horno del Espinar, SL (El Espinar, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 22 April 2014 (Joined Cases R 1233/2013-2 and R 1258/2013-2) relating to opposition proceedings between Horno del Espinar and Lidl Stiftung & Co.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 22 April 2014 (Joined Cases R 1233/2013-2 and R 1258/2013-2) relating to opposition proceedings between Horno del Espinar, SL and Lidl Stiftung & Co. KG insofar as the Board of Appeal held that there was a likelihood of confusion as regards the frozen fruit and vegetables in Class 29 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended;
2. Dismisses the action as to the remainder;
3. Orders Lidl Stiftung & Co. to bear, in addition to its own costs, three quarters of the costs incurred by EUIPO;
4. Orders EUIPO to bear one quarter of its own costs.

⁽¹⁾ OJ C 351, 6.10.2014.