

Mark or sign cited in opposition: Word mark 'EXELON' for goods in Class 5

Decision of the Opposition Division: Application rejected

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 23 April 2014 — Giuntoli/OHIM — Société des produits Nestlé (CREMERIA TOSCANA)

(Case T-256/14)

(2014/C 253/46)

Language in which the application was lodged: English

Parties

Applicant: Andrea Giuntoli (Barcelona, Spain) (represented by: A. Canela Giménez, lawyer)

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

Other party to the proceedings before the Board of Appeal: Société des produits Nestlé SA (Vevey, Switzerland)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 12 February 2014 given in Case R 886/2013-2;
- Order OHIM and those who oppose this request to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark containing the verbal elements 'CREMERIA TOSCANA' for goods and services in the Classes 30, 35 and 43 — Community trade mark application No 9 549 346

Proprietor of the mark or sign cited in the opposition proceedings: Société des produits Nestlé SA

Mark or sign cited in opposition: International trade mark registration of the figurative mark containing the verbal element 'la Cremeria'

Decision of the Opposition Division: Upheld the opposition in part

Decision of the Board of Appeal: Annulled the appealed decision, accepted the opposition and partially rejected the CTM application.

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 28 April 2014 — City Index/OHIM — Citigroup and Citibank (CITY INDEX)

(Case T-269/14)

(2014/C 253/47)

Language in which the application was lodged: English

Parties

Applicant: City Index Ltd (London, United Kingdom) (represented by: B. Brandreth, Barrister)

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

Other parties to the proceedings before the Board of Appeal: Citigroup, Inc. and Citibank, NA (New York, USA)

Form of order sought

The applicant claims that the Court should:

- Partially annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 February 2014 in case R 172/2013-2 that upheld the opposition in respect of goods and services in Classes 9, 16 and 36;
- Order the defendant to pay the applicant its costs incurred before the Board of Appeal and the General Court.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'CITY INDEX' for goods and services in Classes 9, 16, 36 and 41 — Community trade mark application No 7 458 094

Proprietor of the mark or sign cited in the opposition proceedings: Citigroup, Inc. and Citibank, NA

Mark or sign cited in opposition: The figurative mark containing the word element 'citi' for goods and services in Classes 9, 16, 36 and 42, the community and national figurative marks containing the word elements 'citifinancial' and 'citibank', as well as the community and national word marks 'CITICAPITAL', 'CITIMONEY', 'CITIFINANCIAL', 'CITI', 'CITIBOND', 'CITICONNECT', 'CITIBANK' and 'CITICARD'

Decision of the Opposition Division: The opposition was rejected

Decision of the Board of Appeal: The decision of the Opposition Division was partially annulled and the Community trade mark application partially rejected

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009

Action brought on 30 April 2014 — Lithomex/OHMI — Glaubrecht Stingel (LITHOFIX)

(Case T-273/14)

(2014/C 253/48)

Language in which the application was lodged: English

Parties

Applicant: Lithomex ApS (Langeskov, Denmark) (represented by: L. Ullmann, lawyer)

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

Other party to the proceedings before the Board of Appeal: Glaubrecht Stingel GmbH & Co.KG (Wendlingen, Germany)

Form of order sought

The applicant claims that the Court should:

- Overturn decision R 2280/2012-5 of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17/02/2014;
- Amend the contested decision to show that the appeal against Decision No 5589 C of the Cancellation Division of 21/11/2012 is rejected;
- Condemn the intervener to pay the costs including the costs incurred during the appeal proceedings.