

Form of order sought

The applicants claim that the Court should:

- declare that the European Union is non-contractually liable for the proceedings before the General Court which failed to have regard to the requirement that the case be dealt with within a reasonable time;

Consequently, it should:

- order the European Union to pay full and sufficient compensation for the material and non-material damage which the applicants have suffered as a result of the European Union's unlawful conduct, corresponding to the following amounts, together with compensatory and default interest at the rate applied by the European Central Bank to its main refinancing operations, increased by two percentage points, starting from the date when the application was submitted:
 - EUR 1 193 467 for losses suffered as a result of paying the additional legal interest applied to the nominal amount of the fine beyond a reasonable period;
 - EUR 187 571 for losses suffered as a result of making additional bank guarantee payments beyond a reasonable period;
 - EUR 2 000 000 for profits lost and/or losses suffered as a result of 'uncertainty', and
 - EUR 500 000 for the non-material damage suffered;
- In the alternative, if the Court finds that the amount of damage suffered needs to be re-assessed, it should order the commissioning of an expert's report in accordance with Article 65(d), Article 66(1) and Article 70 of the Rules of Procedure of the General Court;
- In any event, the Court should order the European Union to pay the costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on a single plea in law, alleging infringement of the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union owing to the excessive duration of the proceedings before the General Court, that is, infringement of their fundamental right to a hearing within a reasonable time.

Action brought on 1 August 2014 — Birkenstock Sales v OHIM (representation of a surface pattern)

(Case T-579/14)

(2014/C 351/25)

Language of the case: German

Parties

Applicant: Birkenstock Sales GmbH (Vettelschoß, Germany) (represented by C. Menebröcker and V. Töbelmann, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 May 2014 in Case R 1952/2013-1;
- order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the international registration of the figurative mark representing a surface patten for goods in Classes 10, 18 and 25 — International registration No 1 1 32742

Decision of the Examiner: Rejection of the application for registration

Decision of the Board of Appeal: Dismissal of the appeal

Plea in law: Infringement of Article 7(1)(b) of Regulation No 207/2009.

Action brought on 30 July 2014 — Vierling v OHMI — IP Leanware (BRAINCUBE)

(Case T-581/14)

(2014/C 351/26)

Language in which the application was lodged: English

Parties

Applicant: Yvonne Vierling (Cologne, Germany) (represented by: G. Hasselblatt and D. Kipping, lawyers)

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

Other party to the proceedings before the Board of Appeal: IP Leanware (Issoire, France)

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 30 April 2014 given in Case R 1486/2013-2.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'BRAINCUBE' for goods and services in Classes 9 and 38 — Community trade mark application No 10 461 713

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: The earlier German trade mark of the word mark 'Braincube'

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) CTMR.

Action brought on 4 August 2014 — Giand v OHIM — Flamagas (FLAMINAIRE)

(Case T-583/14)

(2014/C 351/27)

Language in which the application was lodged: Italian

Parties

Applicant: Giand Srl (Rimini, Italy) (represented by: F. Caricato, lawyer)

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