

Other party to the proceedings: European Union Intellectual Property Office

By order of 22 February 2018 the Court of Justice (Eighth Chamber) held that the appeal was inadmissible.

Appeal brought on 10 December 2017 by BMB sp. z o.o. against the judgment of the General Court (First Chamber) delivered on 3 October 2017 in Case T-695/15: BMB sp. z o.o. v European Union Intellectual Property Office

(Case C-693/17 P)

(2018/C 142/27)

Language of the case: English

Parties

Appellant: BMB sp. z o.o. (represented by: K. Czubkowski, radca prawny)

Other parties to the proceedings: European Union Intellectual Property Office, Ferrero SpA

Form of order sought

The appellant claims that the Court should:

- set aside the Judgment of the General Court (First Chamber) of 3 September 2017 in Case T-695/15 served on the appellant on 11 October 2017; and
- set aside the decision of the Third Board of Appeal of EUIPO of 8 September 2015 in Case R 1150/2012-3;

Alternatively the Court of Justice shall set aside the judgment and refer the case back to the General Court if the state of proceedings does not permit a decision by the Court of Justice.

According to article 138(1) of the Rules the Court of Justice should also:

- order Ferrero Spa and EUIPO to pay the costs of the present appeal; and
- order Ferrero Spa and EUIPO to pay the costs incurred by the appellant before the General Court; and
- order Ferrero Spa to pay the costs of proceedings before EUIPO concerning Decision.

Pleas in law and main arguments

In support of the appeal, the appellant relies on 2 pleas in law.

First plea in law, alleging infringement of Article 25(l)(e) of the Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Design⁽¹⁾ due to error of law and manifest error in assessment:

- i. that the graphical representation of the earlier trade mark is included in the contested design;
- ii. that the earlier trade mark and contested design are highly similar; and
- iii. that the Board of Appeal committed no error when it held that there is a likelihood of confusion between earlier trade mark and contested design.

Second plea in law, alleging infringement of Article 25(l)(e) of the Council Regulation (EC) No 6/2002 of 12 December 2001 on Community Design in connection with the general principles of sound administration and the protection of legitimate expectations due to an error of law and manifest error in assessment that reference made by the Board of Appeal to Article 8(l)(b) of Regulation No 207/2009 ⁽²⁾ in paragraph 33 of the Decision, is a mere formal error that did not have a decisive effect of the resolution of the dispute, and that it is not necessary to take into consideration national case-law on the IR in the assessment of the likelihood of confusion.

⁽¹⁾ OJ 2002, L 3, p. 1

⁽²⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009, L 78, p. 1).

Appeal brought on 24 October 2017 by Vassil Monev Valkov against the order of the General Court (Second Chamber) delivered on 27 September 2017 in Case T-558/17: Valkov / European Court of Human Rights and Supreme Court of the Republic of Bulgaria

(Case C-701/17 P)

(2018/C 142/28)

Language of the case: English

Parties

Appellant: Vassil Monev Valkov (represented by: K. Mladenova, адвокат)

Other parties to the proceedings: European Court of Human Rights, Supreme Court of the Republic of Bulgaria

By order of 22 February 2018 the Court of Justice (Tenth Chamber) held that the appeal was inadmissible.

Request for a preliminary ruling from the Tribunal Superior de Justicia de Galicia (Spain) lodged on 3 January 2018 — Modesto Jardón Lama v Instituto Nacional de la Seguridad Social, Tesorería General de la Seguridad Social

(Case C-7/18)

(2018/C 142/29)

Language of the case: Spanish

Referring court

Tribunal Superior de Justicia de Galicia

Parties to the main proceedings

Appellant: Modesto Jardón Lama

Respondents: Instituto Nacional de la Seguridad Social, Tesorería General de la Seguridad Social

Question referred

Must Article 48 TFEU be interpreted as meaning that it precludes national legislation which requires as a condition for access to an early retirement pension that the amount of the pension to be received must be higher than the minimum pension which would be due to the person concerned under that same national legislation, the term 'pension to be received' being interpreted as the actual pension from the competent Member State (in this case, Spain) alone, without also taking into account the actual pension which that person may receive through another benefit of the same kind from one or more other Member States?