

Judgment of the General Court of 22 November 2018 — The Vianel Group v EUIPO — Viania Dessous (VIANEL)

(Case T-724/17) ⁽¹⁾

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark VIANEL — Earlier EU word mark VIANIA — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2019/C 44/53)

Language of the case: English

Parties

Applicant: The Vianel Group LLC (Dover, Delaware, United States) (represented by: V. Perrichon, lawyer)

Defendant: European Union Intellectual Property Office (represented by: P. Sipos and D. Walicka, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Viania Dessous GmbH (Mössingen, Germany)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 14 July 2017 (Case R 285/2017-5), relating to opposition proceedings between Viania Dessous and The Vianel Group.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders The Vianel Group LLC to pay, in addition to its own costs, the costs incurred by the European Union Intellectual Property Office (EUIPO) in the proceedings before the General Court.

⁽¹⁾ OJ C 13, 15.1.2018.

Judgment of the General Court of 29 November 2018 — Septona v EUIPO — Intersnack Group (welly)

(Case T-763/17) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for EU figurative mark welly — Earlier EU figurative marks Kelly's and Kelly's www.kellys.eu CHIPS — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2019/C 44/54)

Language of the case: English

Parties

Applicant: Septona AVEE (Oinofyta, Greece) (represented by: V. Wellens, lawyer)

Defendant: European Union Intellectual Property Office (represented by: M. Rajh and D. Walicka, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Intersnack Group GmbH & Co. KG (Düsseldorf, Germany)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 12 July 2017 (Case R 1525/2016-1), relating to opposition proceedings between Intersnack Group and Septona.

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 12 July 2017 (Case R 1525/2016-1);
2. Orders EUIPO to pay the costs.

⁽¹⁾ OJ C 22, 22.1.2018.

Judgment of the General Court of 27 November 2018 — H2O Plus v EUIPO (H 2 O+)

(Case T-824/17) ⁽¹⁾

(EU trade mark — International registration designating the European Union — Figurative mark H 2 O + — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001)

(2019/C 44/55)

Language of the case: English

Parties

Applicant: H2O Plus LLC (San Francisco, California, United States) (represented by: R. Niebel and F. Kerl, lawyers)

Defendant: European Union Intellectual Property Office (represented initially by: S. Palmero Cabezas and D. Walicka, then by S. Palmero Cabezas and H.J. O'Neill, acting as Agents)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 6 October 2017 (Case R 499/2017-1), relating to the international registration designating the European Union in respect of the figurative mark H 2 O+.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders H2O Plus LLC to pay the costs.

⁽¹⁾ OJ C 63, 19.2.2018.