

GENERAL COURT

Judgment of the General Court of 8 February 2019 — Serendipity and Others v EUIPO — CKL Holdings (CHIARA FERRAGNI)

(Case T-647/17) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for EU figurative mark CHIARA FERRAGNI — Earlier Benelux word mark Chiara — 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 112/49)

Language of the case: Italian

Parties

Applicants: Serendipity Srl (Milan, Italy), Giuseppe Morgese (Barletta, Italy) and Pasquale Morgese (Barletta) (represented by: C. Volpi, L. Aliotta and F. Garbagnati Lo Iacono, lawyers)

Defendant: European Union Intellectual Property Office (represented by: L. Rampini, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO: CKL Holdings NV (Bussum, Netherlands)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 17 July 2017 (Case R 2444/2016-4) relating to opposition proceedings between, on the one hand, CKL Holdings and, on the other hand, Serendipity and Messrs Morgese.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 17 July 2017 (Case R 2444/2016-4);
2. Orders EUIPO to bear its own costs and to pay those incurred by Serendipity Srl, Mr Giuseppe Morgese and Mr Pasquale Morgese.

⁽¹⁾ OJ C 392, 20.11.2017.

Action brought on 16 January 2019 — Orkla Foods Danmark v EUIPO (PRODUCED WITHOUT BOILING SCANDINAVIAN DELIGHTS ESTABLISHED 1834 FRUIT SPREAD)

(Case T-34/19)

(2019/C 112/50)

Language of the case: Danish

Parties

Applicant: Orkla Foods Danmark (Taastrup, Denmark) (represented by: S. Hansen, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU figurative mark containing the word elements 'PRODUCED WITHOUT BOILING SCANDINAVIAN DELIGHTS ESTABLISHED 1834 FRUIT SPREAD' — Application for registration No 16 930 241

Contested decision: Decision of the Second Board of Appeal of EUIPO of 1 October 2018 (Case R 309/2018-2)

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

Plea in law

- Infringement of Article 7(3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 23 January 2019 — MSI Svetovanje v EUIPO — Industrial Farmaceutica Cantabria (nume)

(Case T-41/19)

(2019/C 112/51)

Language of the case: English

Parties

Applicant: MSI Svetovanje, marketing, d.o.o (Vrhniko, Slovenia) (represented by: M. Maček, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Industrial Farmaceutica Cantabria, SA (Madrid, Spain)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union figurative nume — Application for registration No 15 120 355

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 8 November 2018 in Case R 722/2018-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to bear its own costs and to pay those incurred to MSI Svetovanje d.o.o.