

Pleas in law: The applicant claims that, contrary to the finding of the Board of Appeal of OHIM in the contested decision, its mark is arbitrary and is sufficiently distinctive in relation to the goods and services applied for to meet the requirements of Council Regulation No 40/94.

Action brought on 8 August 2006 — American Clothing Associates v OHIM (figurative mark — maple leaf and the letters RW)

(Case T-215/06)

(2006/C 249/31)

Language in which the application was lodged: French

Action brought on 4 August 2006 — Euro-Information v OHIM (word mark 'CYBERGESTION')

(Case T-213/06)

(2006/C 249/30)

Language in which the application was lodged: French

Parties

Applicant: Européenne de traitement de l'information SAS (Euro-Information) (Strasbourg, France) (represented by: A. Jacquet, J. Schouman and P. Greffe, lawyers)

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

Form of order sought

- annulment in its entirety of the decision of the First Board of Appeal of OHIM of 24 May 2006, Case R 68/2006-1, which refused to register 'CYBERGESTION' as a Community trade mark, under application No 4 114 716, in respect of all the goods and services applied for in Classes 9, 36 and 38;
- registration of 'CYBERGESTION' as a Community trade mark, under application No 4 114 716, in respect of all the goods and services applied for.

Pleas in law and main arguments

Community trade mark concerned: Word mark 'CYBERGESTION' in respect of goods and services in Classes 9, 36 and 38 (application No 4 114 716)

Decision of the examiner: Refusal to register

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: The applicant claims that, contrary to the finding of the Board of Appeal of OHIM in the contested decision, its mark is arbitrary and is sufficiently distinctive in relation to the goods and services applied for to meet the requirements of Council Regulation No 40/94.

Parties

Applicant: American Clothing Associates (Evergem, Belgium) (represented by: P. Maeyaert and N. Clarembeaux, lawyers)

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

Form of order sought

- annul the decision of the First Board of Appeal of OHIM of 4 May 2006 in Case R 1463/2005-1;
- order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark consisting of a representation of a maple leaf and the letters RW in respect of goods and services in Classes 18, 25 and 40 (application No 2 785 368)

Decision of the examiner: Refusal to register

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: The applicant first pleads infringement of Article 7(1)(h) of Council Regulation No 40/94 and of Article 6 ter of the Paris Convention in so far as the Board of Appeal of OHIM failed to take into consideration the overall impression of the mark applied for and erred in its assessment of the imitative heraldic character of a maple leaf from which it is formed. The applicant also claims that the Board of Appeal was wrong to refuse to take into consideration the reputation of the trade mark when applying an absolute ground for refusal provided for in Article 7(1)(h) of Regulation No 40/94.