

GENERAL COURT

Judgment of the General Court of 18 January 2011 — Advance Magazine Publishers v OHIM Capela & Irmãos (VOGUE)(Case T-382/08) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community word mark VOGUE — Earlier national word mark VOGUE Portugal — Absence of genuine use of the earlier mark — Article 43(2) and (3) of Regulation (EC) No 40/94 (now Article 42(2) and (3) of Regulation (EC) No 207/2009))

(2011/C 63/49)

Language of the case: English

Parties

Applicant: Advance Magazine Publishers Inc. (New York, United States) (represented by: M. Esteve Sanz, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: J. Capela & Irmãos, L^{da} (Porto, Portugal)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 30 June 2008 (Case R 328/2003-2) relating to opposition proceedings between J. Capela & Irmãos, L^{da} and Advance Magazine Publishers, Inc.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 30 June 2008 (Case R 328/2003-2);
2. Dismisses the action as to the remainder;
3. Orders OHIM to bear its own costs and those incurred by Advance Magazine Publishers, Inc.

⁽¹⁾ OJ C 301, 22.11.2008.

Judgment of the General Court of 19 January 2011 — Häfele v OHIM — Topcom Europe (Topcom)(Case T-336/09) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community word mark Topcom — Earlier Community and Benelux word marks TOPCOM — Relative ground for refusal — Likelihood of confusion — Similarity of the goods — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2011/C 63/50)

Language of the case: English

Parties

Applicant: Häfele GmbH & Co. KG (Nagold, Germany) (represented by: J. Dönch and M. Eck, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Topcom Europe (Heverlee, Belgium) (represented by: P. Maeyaert, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 5 June 2009 (Case R 1500/2008-2), concerning opposition proceedings between Topcom Europe NV and Häfele GmbH & Co. KG.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Häfele GmbH & Co. KG to pay the costs, including the costs necessarily incurred by Topcom Europe NV for the purposes of the proceedings before the Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).

⁽¹⁾ OJ C 256, 24.10.2009.

Order of the General Court of 12 January 2011 — Terezakis v Commission(Case T-411/09) ⁽¹⁾

(Access to documents — Regulation (EC) No 1049/2001 — Partial refusal of access — Contested act replaced in the course of the proceedings — Refusal to amend the claims — No need to adjudicate)

(2011/C 63/51)

Language of the case: English

Parties

Applicant: Ioannis Terezakis (Brussels, Belgium) (represented by: initially B. Lombart, then P. Synoikis, lawyers)

Defendant: European Commission (represented by: L. Flynn and C. ten Dam, Agents)

Re:

APPLICATION for annulment of the Commission's decision of 3 August 2009 refusing the applicant access to some parts of, and the annexes to, certain letters exchanged between the European Anti-Fraud Office (OLAF) and the Greek Ministry of Finance regarding tax irregularities in connection with the construction of Spata airport at Athens (Greece)