

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009,⁽¹⁾ since there is no likelihood of confusion between the two marks at issue.

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

Action brought on 17 December 2010 — Aitic Penteo v OHIM — Atos Worldline (PENTEO)

(Case T-585/10)

(2011/C 63/57)

Language in which the application was lodged: English

Parties

Applicant: Aitic Penteo, SA (Barcelona, Spain) (represented by: J. Carbonell, lawyer)

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

Other party to the proceedings before the Board of Appeal: Atos Worldline SA (Bruxelles, Belgium)

Form of order sought

— Modify the decision of the First Board of Appeal of the Office for Harmonization in the Internal Market (Trade Marks and Designs) of 23 September 2010 in case R 774/2010-1 and grant the Community trade mark application No 5480561

— In the alternative, annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 23 September 2010 in case R 774/2010-1; and

— Order the defendant and the other party to the proceedings to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'PENTEO', for goods and services in classes 9, 38 and 42 — Community trade mark application No 5480561

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: Benelux trade mark registration No 772120 of the word mark 'XENTEO' for goods and services in classes 9, 36, 37, 38 and 42; International trade mark regis-

tration No 863851 of the word mark 'XENTEO' for goods and services in classes 9, 36, 37, 38 and 42

Decision of the Opposition Division: Upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: The applicant considers that the contested decision infringes: (i) Article 14 of the Convention for the Protection of Human Rights and Fundamental Freedoms, which prohibits any discrimination, requiring an equal treatment accordingly with the law, (ii) Article 9 of Council Regulation (EC) No 207/2009, as the Board of Appeal disregarded the prior rights of the applicant, (iii) Articles 75 and 76 of Council Regulation (EC) No 207/2009, as the Board of Appeal disregarded facts and evidences submitted in due time by the applicant, and (iv) Article 8(1)(b) of Council Regulation (EC) No 207/2009, as the Board of Appeal erred in assessment of likelihood of confusion.

Action brought on 7 January 2011 — Bank Melli Iran v Council

(Case T-7/11)

(2011/C 63/58)

Language of the case: English

Parties

Applicant: Bank Melli Iran (Tehran, Iran) (represented by: L. Defalque and S. Woog, lawyers)

Defendant: Council of the European Union

Form of order sought

— annul paragraph 5, section B, of the annex to Council Decision 2010/644/CFSP of 25 October 2010 amending Decision 2010/413/CFSP concerning restrictive measures against Iran and repealing Common Position 2007/140/CFSP⁽¹⁾ and paragraph 5, section B, of the annex to VIII of Council Regulation (EU) No 961/2010 of 25 October 2010 on restrictive measures against Iran and repealing Regulation (EC) No 423/2007⁽²⁾ and annul the decision contained in the letter of the Council of 28 October 2010;

— declare Article 20(1)(b) of Council Decision of 26 July 2010⁽³⁾ and Article 16(2)(a) of Council Regulation (EC) (EU) No 961/2010 illegal and inapplicable to the applicant;

— order that the Council pays the applicant's costs of this application.