

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 8 September 2011 in case R 2439/2010-1; and
- Order the defendant to pay the costs of all instances of proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'ENI', for goods and services in classes 1-4, 6-7, 9, 11, 14, 16-19, 22, 25 and 35 to 45 — Community trade mark application No 6488076

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: Community trade mark registration No 4197315 of the word mark 'EMI', for goods and services in classes 9, 16, 35, 38, 41 and 42; Community trade mark registration No 6167357 of the figurative mark 'EMI', for goods and services in classes 9, 16, 28, 35, 38, 41 and 42

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: The applicant challenges the mentioned decision of the First Board of Appeal on the following three grounds: (i) erroneous and non-motivated finding of similarity of goods and services, based on the misunderstanding and misapplication of previous case-law on the point; (ii) erroneous interpretation and application of the Praktiker case, denoting a misunderstanding of its anti-monopolistic inspiring principles and in particular of the ratio that inspired the introduction of registrability of retail services; and (iii) erroneous finding of similarity of signs, and erroneous finding of likelihood of confusion.

Action brought on 25 November 2011 — Schuhhaus Dielmann v OHIM — Carrera (Carrera panamericana)

(Case T-600/11)

(2012/C 32/62)

Language in which the application was lodged: German

Parties

Applicant: Schuhhaus Dielmann GmbH & Co. KG (Darmstadt, Germany) (represented by: W. Göpfert)

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

Other party to the proceedings before the Board of Appeal: Carrera SpA (Caldiero, Italy)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the First board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 September 2011 in Case R 1989/2010-1;
- order the defendant 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: word mark 'Carrera panamericana' for goods in Classes 18 and 25.

Proprietor of the mark or sign cited in the opposition proceedings: Carrera SpA.

Mark or sign cited in opposition: figurative mark containing the word element 'CARRERA' for goods in Class 25.

Decision of the Opposition Division: opposition upheld in part.

Decision of the Board of Appeal: appeal dismissed.

Pleas in law: infringement of Article 8(1)(b) of Regulation No 207/2009, since there is no likelihood of confusion between the opposing marks.

Action brought on 22 November 2011 — Pêra-Grave v OHIM — Fundação De Almeida (QTA S. JOSÉ DE PERAMANCA)

(Case T-602/11)

(2012/C 32/63)

Language in which the application was lodged: English

Parties

Applicant: Pêra-Grave Sociedade Agrícola, Unipessoal, Lda (Évora, Portugal) (represented by: J. de Oliveira Vaz Miranda Sousa, lawyer)

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

Other party to the proceedings before the Board of Appeal: Fundação Eugénio De Almeida (Évora, Portugal)

Form of order sought

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 September 2011 in case R 1797/2010-2 with the consequence that the opposition