

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Partially annulled the contested decision and upheld the opposition in part

Pleas in law: Infringement of Article 8(1)(a) and (b) CTMR.

**Action brought on 29 July 2014 — Hewlett Packard Development Company v OHIM
(ELITEDISPLAY)**

(Case T-563/14)

(2014/C 351/23)

Language of the case: English

Parties

Applicant: Hewlett Packard Development Company LP (Dallas, United States) (represented by: T. Raab and H. Lauf, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 May 2014 given in Case R 1539/2013-2;
- Order the defendant to bear the costs of proceedings.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'ELITEDISPLAY' for goods and services in Class 9 — Community trade mark application No 11 541 901

Decision of the Examiner: Rejected the CTM application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 7(1)(b), 7(1)(c) and 7(2) CTMR.

Action brought on 4 August 2014 — Gascogne Sack Deutschland and Gascogne v Court of Justice

(Case T-577/14)

(2014/C 351/24)

Language of the case: French

Parties

Applicants: Gascogne Sack Deutschland GmbH (Wieda, Germany) and Gascogne (Saint-Paul-lès-Dax, France) (represented by: F. Puel and E. Durand, lawyers)

Defendant: Court of Justice of the European Union

Form of order sought

The applicants claim that the Court should:

- declare that the European Union is non-contractually liable for the proceedings before the General Court which failed to have regard to the requirement that the case be dealt with within a reasonable time;

Consequently, it should:

- order the European Union to pay full and sufficient compensation for the material and non-material damage which the applicants have suffered as a result of the European Union's unlawful conduct, corresponding to the following amounts, together with compensatory and default interest at the rate applied by the European Central Bank to its main refinancing operations, increased by two percentage points, starting from the date when the application was submitted:
 - EUR 1 193 467 for losses suffered as a result of paying the additional legal interest applied to the nominal amount of the fine beyond a reasonable period;
 - EUR 187 571 for losses suffered as a result of making additional bank guarantee payments beyond a reasonable period;
 - EUR 2 000 000 for profits lost and/or losses suffered as a result of 'uncertainty', and
 - EUR 500 000 for the non-material damage suffered;
- In the alternative, if the Court finds that the amount of damage suffered needs to be re-assessed, it should order the commissioning of an expert's report in accordance with Article 65(d), Article 66(1) and Article 70 of the Rules of Procedure of the General Court;
- In any event, the Court should order the European Union to pay the costs of the present proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on a single plea in law, alleging infringement of the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union owing to the excessive duration of the proceedings before the General Court, that is, infringement of their fundamental right to a hearing within a reasonable time.

Action brought on 1 August 2014 — Birkenstock Sales v OHIM (representation of a surface pattern)

(Case T-579/14)

(2014/C 351/25)

Language of the case: German

Parties

Applicant: Birkenstock Sales GmbH (Vettelschoß, Germany) (represented by C. Menebröcker and V. Töbelmann, lawyers)

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

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 May 2014 in Case R 1952/2013-1;
- order the defendant to pay the costs.