

Pleas in law

- Audi failed to demonstrate genuine use of the earlier mark;
- Existence of a difference between components and finished products;
- Existence of a difference between bicycles and the goods indicated in the request of limitation dated 16 October 2014.

Action brought on 22 September 2015 — Guiral Broto v OHIM — Gastro & Soul (Café Del Sol)
(Case T-549/15)
(2015/C 381/63)

Language in which the application was lodged: Spanish

Parties

Applicant: Ramón Guiral Broto (Marbella, Spain) (represented by: J. de Castro Hermida, lawyer)

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

Other party to the proceedings before the Board of Appeal: Gastro & Soul GmbH (Hildesheim, Germany)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark containing the word elements 'CAFE DEL SOL' — Application for registration No 6 104 608

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 16 July 2015 in Case R 1888/2014-5

Form of order sought

The applicant claims that the Court should:

- Annul the contested decision and allow the opposition based on the earlier mark held by Ramón Guiral Broto, Spanish mark No 2348110, in Class 42 of the International Classification.
- Rule that the opposition is upheld, confirming the decision of the Opposition Division refusing the application for the Community trade mark No 006104608 **CAFE DEL SOL** in respect of 'provision of food and drink, temporary accommodation and catering', in Class 43 of the International Classification, requested by the German commercial company Gastro & Soul GmbH, or if the Court should not have jurisdiction in that respect, to refer the matter back to a Board of Appeal of the Office for Harmonisation in the Internal Market, with the direction to uphold the opposition.

- In respect of the evidence, in addition to the evidence in the administrative proceedings, the documents accompanying the present application be held to have been produced, that is documents numbers 1 to 4, as specified in the list of documents annexed to the application.

Plea in law

The pleas and main arguments are those relied on in Case T-548/15.

Action brought on 25 September 2015 — Federcaccia Toscana and Others v Commission

(Case T-562/15)

(2015/C 381/64)

Language of the case: Italian

Parties

Applicants: Federcaccia Toscana (Florence, Italy), Moreno Periccioli (Volterra, Italy), Arcicaccia Toscana (Florence, Italy), Fabio Lupi (Cascina, Italy), Associazione dei Migratoristi Italiani per la conservazione dell'ambiente naturale (ANUU) — TOSCANA (Cerreto Guidi, Italy), Franco Bindi (Cerreto Guidi, Italy) (represented by: A. Bruni, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- declare that the European Commission has intentionally or negligently failed to examine the preliminary Key Concepts data acquired from Italy relating to the beginning of the pre-mating migration of woodcocks, song thrushes and fieldfares as compared with the same data acquired from France thereby evading moreover the obligation to produce resulting transnational data relating to those three migratory species in geographically and climatically homogenous areas;
- declare that the European Commission has intentionally or negligently failed to update the Italian Key Concepts data relating to the beginning of the pre-mating migration of woodcocks, song thrushes and fieldfares, adjusting and aligning them to the French data found to be correct and legitimate, and recognising that the beginning of the pre-mating migration of those three species takes place in the second period of ten days in February also in Italy;
- declare that the European Commission, in the absence of valid and correct conditions, sought the introduction in Italy, and in particular in Tuscany, of unjustified limitations on the hunting of woodcocks, song thrushes and fieldfares as compared to that consented to in France and in particular in Corsica, bringing forward to 20 January in Tuscany the end of the hunt for those three migrating species;
- declare unlawful, on the grounds of unequal treatment between Member States and/or Regions of the Member States and also lack of valid conditions, the procedure EU PILOT 6955/14/ENVI brought by the European Commission exclusively against the Italian State since it did not bring an identical and concurrent action against France and did not carry out any preliminary investigation aimed at acquiring corresponding elements from which it can be concluded that the effective beginning of the pre-mating migration of woodcocks, song thrushes and fieldfares is to be deferred by one month (20 February) in Corsica compared to the beginning of the same pre-mating migration in Tuscany (20 January);