



## Reports of Cases

**Judgment of the Court (Eighth Chamber) of 15 May 2014 — Louis Vuitton Malletier v OHIM**

**(Case C-97/12 P)**

(Appeal — Community trade mark — Invalidity proceedings — Figurative mark representing a locking device — No distinctive character — Partial invalidity — Regulation (EC) No 40/94 — Article 7(1)(b))

1. *Community trade mark — Surrender, revocation and invalidity — Absolute grounds for invalidity — Registration contrary to Article 7(1)(b) of Regulation No 40/94 — Three-dimensional trade marks consisting of the shape of the product itself — Distinctive character — Assessment criteria (Council Regulation No 40/94, Art. 7(1)(b)) (see paras 51, 52)*
2. *Community trade mark — Surrender, revocation and invalidity — Absolute grounds for invalidity — Registration contrary to Article 7(1)(b) of Regulation No 40/94 — Figurative mark consisting of the two-dimensional representation of a product — Distinctive character — Assessment criteria (Council Regulation No 40/94, Art. 7(1)(b)) (see paras 53, 54)*
3. *Appeals — Grounds — Incorrect assessment of the facts and evidence — Inadmissibility — Review by the Court of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted (Art. 256(1) TFEU; Statute of the Court of Justice, Art. 58, first para.) (see paras 61, 74)*
4. *Community trade mark — Procedural provisions — Examination of the facts of the Office's own motion — Registration of a new trade mark — Absolute grounds for refusal — Burden of proof (Council Regulation No 40/94, Art. 7(1) and 74(1)) (see paras 70-72)*
5. *Appeals — Grounds — Inadequate or contradictory grounds — Admissibility (see paras 84, 93)*

**Re:**

Appeal against the judgment of the General Court (Third Chamber) of 14 December 2011 in Case T-237/10 *Vuitton Malletier v OHIM and Friis Group International (Representation of a locking device)*, by which the General Court partially granted an action for annulment brought by the proprietor of the Community figurative mark representing a locking device, for goods in Classes 9, 14, 18 and 25, against Decision No R 1590/2008-1 of the First Board of Appeal of the Office for

Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 24 February 2010, partially annulling the decision of the Cancellation Division which rejected the application for a declaration of invalidity of that mark.

### **Operative part**

The Court:

1. Dismisses the appeal;
2. Dismisses the cross-appeal;
3. Orders Louis Vuitton Malletier, the Office for Harmonisation in the Internal Market (Trade Marks and Designs) and Friis Group International ApS each to bear its own costs.