



Reports of Cases

Judgment of the Court (Seventh Chamber) of 6 March 2014 — *Pi-Design and Others v Yoshida Metal Industry*

(Joined Cases C-337/12 P to C-340/12 P)

(Appeals — Community trade mark — Registration of signs consisting of a surface with black dots — Declaration of invalidity — Regulation (EC) No 40/94 — Article 7(1)(e)(ii) — Distortion of the evidence)

1. *Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Signs which consist exclusively of the shape of goods which is necessary to obtain a technical result — Identification of the essential characteristics of a sign (Council Regulation No 40/94, Art. 7(1)(e)(ii)) (see paras 45-48, 67)*
2. *Community trade mark — Surrender, revocation and invalidity — Absolute grounds for invalidity — Registration contrary to Article 7 — Relevant date for the examination of an absolute ground for invalidity — Date of application for registration (Council Regulation No 40/94, Art. 51(1)(a)) (see paras 59, 60)*

Re:

Appeals brought against the judgments of the General Court (Fourth Chamber) of 8 May 2012 in Case T-331/10 *Yoshida Metal Industry v OHIM — Pi-Design and Others (Representation of a triangular surface with black dots)* and Case T-416/10 *Yoshida Metal Industry v OHIM — Pi-Design and Others (Representation of a surface with black dots)*, by which that court annulled Decision R 1237/2008-1 of the First Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 20 May 2010 which annulled the decision of the Cancellation Division rejecting the application for a declaration of invalidity brought by Pi-Design, Bodum France and Bodum Logistics A/S in respect of a figurative mark representing a surface with black dots, for goods in Classes 8 and 21 — Interpretation of Article 7(1)(e)(ii) of Regulation (EC) No 207/2009 on the Community trade mark — Sign which consists exclusively of the shape of goods which is necessary to obtain a technical result.

Operative part:

The Court:

1. Sets aside the judgments of the General Court of the European Union of 8 May 2012 in Case T-331/10 *Yoshida Metal Industry v OHIM — Pi-Design and Others (Representation of a triangular surface with black dots)* and Case T-416/10 *Yoshida Metal Industry v OHIM — Pi-Design and Others (Representation of a surface with black dots)*;
2. Refers the cases back to the General Court of the European Union;
3. Reserves the costs.