



Reports of Cases

Judgment of the General Court (Fourth Chamber) of 29 February 2012 — Certmedica International and Lehning entreprise v OHIM — Lehning entreprise and Certmedica International (L112)

(Joined Cases T-77/10 and T-78/10)

(Community trade mark — Invalidity proceedings — Community word mark L112 — Earlier French word mark L.114 — Relative ground for refusal — Likelihood of confusion — Similarity of the goods — Similarity of the signs — Article 8(1)(b) and Article 53(1)(a) of Regulation (EC) No 207/2009 — No genuine use of the earlier mark — Article 57(2) and (3) of Regulation No 207/2009 — Declaration of partial invalidity)

Community trade mark — Surrender, revocation and invalidity — Relative grounds for invalidity — Existence of an earlier identical or similar mark registered for identical or similar goods or services (Council Regulation No 207/2009, Arts 8(1)(b), and 53(1)(a)) (see paras 73, 76, 106-110)

Re:

ACTION for annulment of the decision of the Second Board of Appeal of OHIM of 9 December 2009 (Case R 934/2009-2) relating to invalidity proceedings between Lehning entreprise and Certmedica International GmbH.

Operative part

The Court:

1. In Case T-77/10:
 - annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 9 December 2009 (Case R 934/2009-2) in so far as it declares the registration of the mark L112 to be invalid in respect of ‘veterinary preparations’;

- dismisses the action as to the remainder;
- orders Certmedica International GmbH and OHIM to bear their own costs;
- orders Lehning entreprise to pay the costs incurred in connection with its intervention.

2. In Case T-78/10:

- dismisses the action;
- orders Lehning entreprise to bear its own costs and to pay those incurred by OHIM;
- orders Certmedica International to pay the costs incurred in connection with its intervention.