

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- grant registration of the Community trade mark 'LABORATOIRES MAJORELLE' in respect of:

Class 3: Soaps; Cosmetics; Cosmetics; Washing preparations for personal deodorising purposes or personal hygiene; Cosmetic preparations for skin care; Non-medicated skin care preparations; Skin cleaning preparations; Skin conditioners;

Class 5: Pharmaceutical preparations for skin care; Dietetic substances adapted for medical use; Medicinal herbs; Dietary supplements and nutritional supplements; Dietetic supplements for medical purposes; Health food supplements; Pharmaceutical preparations;

Class 10: Surgical, medical, dental and veterinary apparatus and instruments, artificial limbs, eyes and teeth; Orthopaedic articles; Suture materials; Surgical apparatus and instruments; Medical apparatus and instruments;

- order EUIPO to pay the costs.

Plea in law

- Infringement of Regulation No 207/2009 in the light of the existence of the earlier rights on which the opposition is based, the examination of the evidence of genuine use of the earlier trade marks, and the global assessment of the likelihood of confusion.

Action brought on 17 July 2017 — The Scotch Whisky Association v EUIPO — José Estévez (JOHN COR)

(Case T-438/17)

(2017/C 309/45)

Language in which the application was lodged: Spanish

Parties

Applicant: The Scotch Whisky Association (Edinburgh, United Kingdom) (represented by: F. Rodríguez Domínguez and J. Gracia Albero, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: José Estévez, SA (Jerez de la Frontera, Spain)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union word mark 'JOHN COR' — European Union trade mark No 10 965 937

Procedure before EUIPO: Revocation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 16 May 2017 in Case R 1289/2016-2

Form of order sought

The applicant claims that the General Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

Pleas in law

- Infringement of Articles 64(1) and 76(1) of Regulation No 207/2009.
- Infringement of Article 51(1)(c) of Regulation No 207/2009.

Action brought on 21 July 2017 — Lupu v EUIPO — Dzhihangir (Djili soy original DS)
(Case T-456/17)
(2017/C 309/46)

Language in which the application was lodged: English

Parties

Applicant: Victor Lupu (Bucharest, Romania) (represented by: P. Acsinte, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Ibryam Dzhihangir (Silistra, Bulgaria)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark containing the word elements 'Djili soy original DS' — Application for registration No 8 810 558

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 03 May 2017 in Case R 516/2011-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- uphold the opposition against the registration of EUTMA 008404551 'Djili DS' and/or to cancel the registration of EUTMA 008404551 'Djili DS';
- in subsidiary, annul the Decision of the Fifth Board of Appeal dated 03/05/2017 concerning the appeal R 516/2011-5 and to order the resumption of the proceedings before the Board of Appeal and further to order the Board of Appeal to maintain the suspension of its proceedings until a written, motivated and signed final decision on the appeal for annulment, docket no. 2794/1/2016, is provided to the Board of Appeal;
- order EUIPO and DZHIHANGIR Ibryam to pay the costs.

Pleas in law

- Infringement of Article 1, 1st Protocol of the European Convention on Human Rights;
 - Infringement of Rule 20(7)(a) and (c) of the Commission Regulation (EC) no.2868/95 of 13 December 1995 implementing Council Regulation (EC) no. 40/94 on the Community trade mark;
 - *Mutatis mutandis* article 53(2)(c) and (d) of the Council Regulation (EC) no. 207/2009 in respect of the applicant's copyright for the picture of the package 'Djili' written in red letters on a blue package with the figure of a parrot and in respect of the applicant's rights to use a trade name for products in the sense of the Judgment of the European Court of Justice in the Case C-17/06 'Celine';
 - Other relevant legal provision.
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