

ORDER OF THE COURT OF FIRST INSTANCE**of 9 September 2004****in Case T-14/04 Alto da Casablanca SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) ⁽¹⁾****(Community trade mark — Representation by a lawyer — Manifest inadmissibility)**

(2005/C 19/52)

(Language of the case: English)

In Case T-14/04, Alto da Casablanca SA, established in Casablanca (Chile), represented by A. Pluckrose, against Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agent: O. Montalto), the other party to the proceedings before the Board of Appeal of OHIM being Bodegas Julián Chivite, SL, established in Cintruénigo (Spain) – application for annulment of the decision of the Second Board of Appeal of OHIM of 4 November 2003 (Case R 18/2003-2) concerning an application for registration of the word mark VERAMONTE as a Community trade mark – the Court of First Instance (Fifth Chamber) composed of P. Lindh, President, R. Garcia-Valdecasas and J.D. Cooke, Judges; H. Jung, Registrar, made an order on 9 September 2004, the operative part of which is as follows:

- (1) *The action is dismissed as manifestly inadmissible;*
- (2) *Each party shall bear its own costs.*

⁽¹⁾ OJ C 71 of 20.3.2004.

ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE**of 7 July 2004****in Case T-37/04 R Região autónoma dos Açores v Council of the European Union****(Proceedings for interim relief — Fisheries — Council Regulation (EC) No 1954/2003 — Application for partial suspension and other interim measures — Admissibility — Urgency — Intervention)**

(2005/C 19/53)

(Language of the case: English)

In Case T-37/04 R, Região autónoma dos Açores, represented by M. Renouf, S. Crosby and C. Bryant, solicitors, and H.

Mercer, barrister, against Council of the European Union (Agents: J. Monteiro and F. Florindo Gijón), supported by Commission of the European Communities (Agents: T. van Rijn and B. Doherty, with an address for service in Luxembourg) and by Kingdom of Spain (Agents: N. Díaz Abad and E. Braquehais Conesa, with an address for service in Luxembourg) – application for partial suspension of Council Regulation (EC) No 1954/2003 of 4 November 2003 on the management of the fishing effort relating to certain Community fishing areas and resources and modifying Regulation (EC) No 2847/93 and repealing Regulations (EC) No 685/95 and (EC) No 2027/95 (OJ 2003 L 289, p. 1), in so far as it adversely affects Azorean waters and, in particular, Articles 3, 5(1), 11, 13(b) and 15 thereof and the Annex thereto, and/or any other interim measures deemed to be appropriate – the President of the Court of First Instance made an order on 7 July 2004, the operative part of which is as follows:

- (1) *Porto de Abrigo, Organização de Produtores da Pesca CRL and GÊ-Questa, Associação de Defesa do Ambiente are granted leave to intervene in support of the forms of order sought by the applicant;*
- (2) *The application of WWF–World Wide Fund for Nature and Seas at Risk for leave to intervene is dismissed;*
- (3) *The application for interim measures is dismissed;*
- (4) *Costs are reserved.*

Action brought on 24 August 2004 by Bitburger Brauerei Th. Simon GmbH against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-350/04)

(2005/C 19/54)

(Language in which the application was submitted: German)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 24 August 2004 by Bitburger Brauerei Th. Simon GmbH, of Bitburg (Germany), represented by Michaela Huth-Dierig, lawyer. Anheuser-Busch, Inc., of St Louis (United States of America), was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 June 2004 in appeal R 453/2002-2;
- order the defendant to pay the costs.

Pleas in law and main arguments:

Applicant for Community trade mark: Anheuser-Busch, Inc.

Community trade mark sought: Word mark BUD for goods in Class 32 (beer, ale, porter, malted alcoholic beverages) – Application No 24 711

Proprietor of mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: German word and figurative marks Bit, BIT, Bitte ein Bit and Bitburger for goods and services in Classes 16, 18, 20, 21, 24, 25, 28, 32, 34 and 42 (inter alia beer and non-alcoholic drinks)

Decision of the Opposition Division: Opposition rejected

Decision of the Board of Appeal: Applicant's appeal dismissed

Pleas in law: There is considerable aural similarity between the marks
Article 8(1)(b) of Regulation (EC) No 40/94 was applied incorrectly
The BIT marks with earlier priority enjoy extended protection under Article 8(5) of the regulation

Pleas in law and main arguments:

Applicant for Community trade mark: Anheuser-Busch, Inc.

Community trade mark sought: Figurative mark American Bud for goods in Classes 16, 25 and 32 (inter alia paper, clothing, beer, ale, porter, malted alcoholic and non-alcoholic beverages) – Application No 398 966

Proprietor of mark or sign cited in the opposition proceedings: The applicant

Action brought on 24 August 2004 by Bitburger Brauerei Th. Simon GmbH against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-351/04)

(2005/C 19/55)

(Language in which the application was submitted: German)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 24 August 2004 by Bitburger Brauerei Th. Simon GmbH, of Bitburg (Germany), represented by Michaela Huth-Dierig, lawyer. Anheuser-Busch, Inc., of St Louis (United States of America), was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 22 June 2004 in appeal R 447/2002-2;
- order the defendant to pay the costs.

Mark or sign cited in opposition: German word and figurative marks Bit, BIT and Bitte ein Bit for goods and services in Classes 16, 18, 20, 21, 24, 25, 28, 32, 34 and 42 (inter alia beer and non-alcoholic drinks)

Decision of the Opposition Division: Opposition rejected