

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

#### Form of order sought

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 7 August 2006 in case No R 447/2006-4; and
- order that the costs of the proceedings be borne by the defendant.

#### Pleas in law and main arguments

*Community trade mark concerned:* Word mark '1 000' for goods and services in classes 16, 28 and 41 — application No 4 372 264

*Decision of the examiner:* Refusal of the application

*Decision of the Board of Appeal:* Dismissal of the appeal

*Pleas in law:* Violation of Article 7(1)(b) of Council Regulation No 40/94 as numerals in principle, according to the applicant, are not devoid of distinctive character and can function as an indication of origin in the same way as words.

Violation of Article 7(1)(c) of the regulation as the trade mark applied for is not descriptive since consumers confronted with the trade mark '1 000' on printed articles will not be able to deduct any information about the characteristics of the goods concerned.

---

#### Action brought on 4 September 2006 — Promat v OHIM — Puertas Proma (Promat)

(Case T -300/06)

(2006/C 310/50)

*Language in which the application was lodged:* German

#### Parties

*Applicant:* Promat GmbH (Ratingen, Germany) (represented by: J.Krenzel)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal of OHIM:* Puertas Proma, S.A.L.

#### Form of order sought

- amend the defendant's decision of 4 May 2006 (Ref. R 1058/2005-1) so as to allow the appeal in full;
- order the defendant to pay the costs.

#### Pleas in law and main arguments

*Applicant for a Community trade mark:* the applicant.

*Community trade mark concerned:* the word mark 'Promat' for goods and services in Classes 1, 2, 6, 17, 19, 20 and 42 (Application No 803 825).

*Proprietor of the mark or sign cited in the opposition proceedings:* Puertas Proma, S.A.L.

*Mark or sign cited in opposition:* in particular, the figurative mark 'PROMA' for goods and services in Classes 6, 20 and 39 (Community trade mark No 239 384), the opposition being directed against the application in respect of Classes 6, 19 and 20.

*Decision of the Opposition Division:* Opposition upheld.

*Decision of the Board of Appeal:* Appeal dismissed.

*Pleas in law:* breach of Article 8(1)(a) and (b) of Regulation (EC) No 40/94 <sup>(1)</sup>, on the ground that neither the opposing signs nor the opposing goods are similar. Therefore there is no likelihood of confusion between the opposing marks.

---

<sup>(1)</sup> Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

---

#### Action brought on 6 November 2006 — Hartmann v OHIM (E)

(Case T-302/06)

(2006/C 310/51)

*Language of the case:* German

#### Parties

*Applicant:* Paul Hartmann Aktiengesellschaft (Heidenheim, Germany) (represented by K. Gründig-Schnelle, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

#### Form of order sought

- annul the contested decision
- order the Office for Harmonisation in the Internal Market to pay the costs of the proceedings

#### Pleas in law and main arguments

*Community trade mark concerned:* The word mark 'E' for goods in Classes 5, 10 and 25 — Application No 4 316 949

*Decision of the Examiner:* Refusal of the application

*Decision of the Board of Appeal:* Dismissal of the appeal

*Pleas in law:* Infringement of Article 7(1)(b) of Regulation No 40/94.