

- in the alternative, annul the contested decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 25 March 2010 in Case R 1388/2008-4;
- order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant.

Community trade mark concerned: Figurative mark in blue and grey colours, which contains the word element 'KICO' for goods and services in Classes 16, 36 and 39.

Proprietor of the mark or sign cited in the opposition proceedings: Mitteldeutscher Rundfunk (body governed by public law) and Zweites Deutsches Fernsehen (body governed by public law).

Mark or sign cited in opposition: Community word mark 'KIKA' for goods and services in Classes 8, 9, 11, 16, 18, 20, 21, 24, 25, 28, 29, 30, 32, 38 and 41 and German figurative mark in black and white colours which contains the word element 'KIKA' for goods and services in Classes 8, 9, 11, 16, 18, 20, 21, 24, 25, 28, 29, 30, 32, 38, 41 and 42.

Decision of the Opposition Division: Opposition upheld.

Decision of the Board of Appeal: Appeal dismissed.

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009, ⁽¹⁾ because there is no likelihood of confusion between the marks at issue.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

Action brought on 31 May 2010 — KNUT IP Management v OHIM — Zoologischer Garten Berlin (KNUT — DER EISBÄR)

(Case T-250/10)

(2010/C 209/75)

Language in which the application was lodged: German

Parties

Applicant: KNUT IP Management Ltd. (London, England) (represented by: C. Jaeckel, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Zoologischer Garten Berlin AG (Berlin, Germany)

Form of order sought

- annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 March 2010 in Case R 650/2009-1;
- order the defendant to pay the costs including those of the proceedings before the Board of Appeal.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant.

Community trade mark concerned: Word mark 'KNUT — DER EISBÄR' for goods and services in Classes 9, 16, 25, 28 and 41.

Proprietor of the mark or sign cited in the opposition proceedings: Zoologischer Garten Berlin AG.

Mark or sign cited in opposition: German word mark 'KNUD' for goods and services in Classes 9, 16 and 28; German word mark 'Knut — der Eisbär' for goods and services in Classes 16, 25, 28 and 41; German word mark 'KNUT' for goods and services in Classes 3, 4, 5, 8, 9, 11, 12, 14, 16, 18, 20, 21, 24, 25, 28, 29, 30, 32, 33, 35, 39, 41, 42 and 43; German word mark 'KNUT' for goods and services in Classes 16, 18, 21, 25, 28, 35, 41 and 42.

Decision of the Opposition Division: Opposition upheld in part.

Decision of the Board of Appeal: Appeal allowed and opposition upheld in full.

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009, ⁽¹⁾ because there is no likelihood of confusion between the marks at issue.

⁽¹⁾ Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).