

Appeal brought on 11 January 2012 by Sheilesh Shah, Akhil Shah against the judgment of the General Court (Fifth Chamber) delivered on 10 November 2011 in Case T-313/10: Three-N-Products Private Ltd v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-14/12 P)

(2012/C 73/39)

Language of the case: English

Parties

Appellants: Sheilesh Shah, Akhil Shah (represented by: M. Chapple, Barrister)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Three-N-Products Private Ltd.

Form of order sought

The appellants claim that the Court should order that:

- the Judgment be annulled;
- the Decision be affirmed;
- the CTM Application be allowed to proceed to registration.
- the Respondent pays to the Appellants the costs incurred by the Appellants in connection with this Appeal, the hearing before the General Court and the Decision.

Pleas in law and main arguments

The Appellants respectfully submit that the General Court erred as a matter of law in the following respects:

The General Court wrongly decided that there was no likelihood of confusion between the trade mark in suit and the two earlier registered trade marks upon which the Respondent relies (one a word mark of AYUR and the other figurative mark containing the word AYUR), given the weak distinctive character of the earlier marks and the low overall similarity between the signs at issue;

In particular the General Court wrongly decided that although the letters U and I added respectively in the middle and at the end of the word AYUR, give difference to the trade mark in suit, such difference is *'not such as to attract the attention of the consumer'*;

Also in particular the General court wrongly decided that there were no significant and substantial visual, phonetic and conceptual differences between the signs at issue.

Action brought on 18 January 2012 — European Commission v Council of the European Union

(Case C-28/12)

(2012/C 73/40)

Language of the case: English

Parties

Applicant: European Commission (represented by: G. Valero Jordana, K. Simonsson, S. Bartelt, Agents)

Defendant: Council of the European Union

The applicant claims that the Court should:

- annul the Decision of the Council and of the Representatives of the Governments of the Member States of the European Union, meeting within the Council of 16 June 2011 on the signing, on behalf of the Union, and provisional application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part; and on the signing, on behalf of the Union, and provisional application of the Ancillary Agreement between the European Union and its Member States, of the first part, Iceland, of the second part, and the Kingdom of Norway, of the third part, on the application of the Air Transport Agreement between the United States of America, of the first part, the European Union and its Member States, of the second part, Iceland, of the third part, and the Kingdom of Norway, of the fourth part (2011/708/EU) (1);
- order the effects of Decision 2011/708/EU to be maintained;
- order the Council to pay the costs.

Pleas in law and main arguments

1. By way of the present application the Commission seeks the annulment of the 'Decision of the Council and of the Representatives of the Governments of the Member States of the European Union, meeting within the Council' of 16 June 2011 (Decision 2011/708/EU) (hereinafter referred to as 'the contested decision' or 'the contested measure') which was adopted in the field of air transport. It concerns the signing and provisional application of the accession of Iceland and the Kingdom of Norway to the Air Transport Agreement between the United States, of the one part, and the EU and its Member States, of the other part, as well as the signing and provisional application of the Ancillary Agreement thereto.
2. The Application is founded on the following three pleas in law:
3. The Commission argues, first, that adopting the contested decision the Council has violated Article 13 (2) of the Treaty on European Union (TEU) in conjunction with