

**Judgment of the General Court of 21 September 2012 —
Wesergold Getränkeindustrie v OHIM — Lidl Stiftung
(WESTERN GOLD)**

(Case T-278/10) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community word mark WESTERN GOLD — Earlier national, international and Community word marks WESERGOLD, Wesergold, and WeserGold — Relative grounds for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Distinctiveness of the earlier marks)

(2012/C 343/23)

Language of the case: German

Parties

Applicant: Wesergold Getränkeindustrie GmbH & Co. KG (Rinteln, Germany) (represented by: P. Goldenbaum, T. Melchert and I. Rohr, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: R. Pethke, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by A. Marx and M. Schaeffer, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 24 March 2010 (Case R 770/2009-1) concerning opposition proceedings between Wesergold Getränkeindustrie GmbH & Co. KG and Lidl Stiftung & Co. KG

Operative part of the judgment

The Court:

1. Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 24 March 2010 (Case R 770/2009-1);
2. Orders OHIM to bear its own costs and also to pay the costs of the applicant;
3. Orders Lidl Stiftung & Co. KG to bear its own costs.

⁽¹⁾ OJ C 221, 14.8.2010.

**Judgment of the General Court of 20 September 2012 —
Hungary v Commission**

(Case T-407/10) ⁽¹⁾

(Structural funds — Financial assistance — Budapest-Kelenföld-Székesfehérvár-Boba railway line — VAT — Non-eligible expenditure)

(2012/C 343/24)

Language of the case: Hungarian

Parties

Applicant: Hungary (represented by: M.Z. Fehér and K. Szíjjártó, agents)

Defendant: European Commission (represented by: A. Steiblyté, D. Triantafyllou and V. Bottka, agents)

Re:

Action for annulment brought against the Commission Decision of 8 July 2010 relating to the major project for 'Reconstruction of the Budapest-Kelenföld-Székesfehérvár-Boba railway line, section 1, phase 1' forming part of the 'Transport' operational programme for structural support from the European Regional Development Fund (ERDF) and the Cohesion Fund (CCI 2008HU161PR015).

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Hungary to pay the costs.

⁽¹⁾ OJ C 317, 20.11.2010.

**Judgment of the General Court of 20 September 2012 —
HerkuPlast Kubern v OHIM — How (eco-pack)**

(Case T-445/10) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community trade mark eco-pack — Earlier national and international word marks ECOPAK — Likelihood of confusion — Similarity of the goods — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2012/C 343/25)

Language of the case: German

Parties

Applicant: HerkuPlast Kubern GmbH (Ering, Germany) (represented by: G. Württenberger and R. Kunze, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Heidi A.T. How (Harrow, United Kingdom)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 27 July 2010 (Case R 2014/2009-4) concerning opposition proceedings between HerkuPlast Kubern GmbH and Heidi A.T. How.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of Office for Harmonisation in the Internal Market of 27 July 2010 (Case R 2014/2009-4);