

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark 'Sun Park Holidays Die wohl kinderfreundlichste Art Campingurlaub zu machen!' in colours blue, yellow and black, for services in classes 39 and 43 — Community trade mark application No 9078049

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: Community trade mark registration No 6852453 for the figurative mark in colours blue and green 'Sunparks Holiday Parks', for services in classes 39, 41 and 43; Benelux trade mark registration No 834301 of the word mark 'SUNPARK'; Benelux trade mark registration No 853882 and International registration No 992185 for the figurative mark 'SUNPARKS'

Decision of the Opposition Division: Upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(b) Council Regulation No 207/2009.

Action brought on 30 August 2012 — Elite Licensing v OHIM — Aguas De Mondariz Fuente del Val (elite BY MONDARIZ)

(Case T-386/12)

(2012/C 355/64)

Language in which the application was lodged: English

Parties

Applicant: Elite Licensing Company SA (Fribourg, Suisse) (represented by: J. Albrecht, lawyer)

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

Other party to the proceedings before the Board of Appeal: Aguas De Mondariz Fuente del Val, SL (Mondariz, Spain)

Form of order sought

— Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 June 2012 in case R 9/2011-5; and

— Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark 'elite BY MONDARIZ', for goods and services in classes 32, 38 and 39 — Community trade mark application No 6957872

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

Mark or sign cited in opposition: Community trade mark registration No 4995114 for the word mark 'ELITE MODEL LOOK', for goods and services in classes 8, 9, 11, 21 and 38; Community trade mark application No 5765185 for the figurative mark 'elite', for goods and services in classes 3, 5, 8, 9, 10, 11, 12, 14, 16, 18, 20, 21, 24, 25, 26, 28, 32, 35, 38, 41, 43 and 44; International trade mark registration No 949195 for the figurative mark 'elite', for goods and services in classes 3, 5, 8, 9, 10, 11, 12, 14, 16, 18, 20, 21, 24, 25, 26, 28, 32, 35, 38, 41, 43 and 44

Decision of the Opposition Division: Upheld the opposition and rejected the Community trade mark application in its entirety

Decision of the Board of Appeal: Annulled the contested decision and rejected the opposition

Pleas in law:

— Infringement of Rules 48(2), 49(1) and 96 (1) of Commission Regulation No 2868/95; and

— Infringement of Articles 8(1)(b) and 8(5) of Council Regulation No 207/2009.

Action brought on 5 September 2012 — Lifted Research and LRG Europe/OHIM — Fei Liangchen (Lr geans)

(Case T-390/12)

(2012/C 355/65)

Language in which the application was lodged: English

Parties

Applicants: Lifted Research Group, Inc (Irvine, United States) and LRG Europe Ltd (Hertfordshire, United Kingdom) (represented by: M. Edenborough, QC)

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

Other party to the proceedings before the Board of Appeal: Fei Liangchen (Zhejiang, China)

Form of order sought

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 13 June 2012 in case R 1199/2010-2; and

— Order the defendant to pay to the applicants the applicants' costs of and occasioned by this appeal; alternatively, if the other party to the proceedings intervenes, the defendant and the intervener are jointly and severally liable to pay to the applicants the applicants' costs of and occasioned by this appeal.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark 'Lr geans', for goods and services in classes 3, 18 and 25 — Community trade mark application No 5572631

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

Mark or sign cited in opposition: Community trade mark registration No 2473627 for the word mark 'LIFTED RESEARCH GROUP', for goods in class 8; Community trade mark registration No 1591478 for the word mark 'LIFTED RESEARCH GROUP', for goods in class 25; Community trade mark registration No 4709325 for the word mark 'L R G', for goods and services in classes 3, 9, 16, 25, 28, 35, 41 and 42; Community trade mark registration No 2473601 for the word mark 'L R G', for goods in class 18; Community trade mark registration No 1591452 for the word mark 'L R G', for goods in class 25; Community trade mark registration No 4708897 for the figurative mark representing a tree with a cross, for goods in classes 3, 9 and 25; Community trade mark registration No 4709218 of the figurative mark 'L', for goods in classes 9, 18 and 25; Community trade mark application No 4988127 of the figurative mark 'L', for goods and services in classes 3, 18, 25 and 35; Non-registered signs used in the course of trade in the European Union 'LIFTED RESEARCH GROUP', 'LRG', 'L r geans', 'L', 'Lrg', 'Lr geans', for goods in classes 3, 18 and 25.

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Articles 8(1)(b) and 8(5) of Council Regulation No 207/2009; and

— Infringement of Article 8(4) of Council Regulation No 207/2009 in conjunction with Rule 19(1) of Commission Regulation No 2868/95.

Action brought on 5 September 2012 — Lidl Stiftung v OHIM — Unipapel Industria Comercio y Servicios (UNITED OFFICE)

(Case T-391/12)

(2012/C 355/66)

Language in which the application was lodged: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: M. Wolter and S. Paul, lawyers)

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

Other party to the proceedings before the Board of Appeal: Unipapel Industria Comercio y Servicios, SL (Tres Cantos, Spain)

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 21 June 2012 in case R 745/2011-1; and

— Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The figurative mark 'UNITED OFFICE', for goods in classes 9, 16 and 20 — Community trade mark application No 7454606

Proprietor of the Community trade mark: The applicant

Applicant for the declaration of invalidity of the Community trade mark: The other party to the proceedings before the Board of Appeal

Grounds for the application for a declaration of invalidity: The request for a declaration of invalidity was based on the grounds laid down in Article 53(1) of Council Regulation No 207/2009, and on Community trade mark registration No 1445832 of the word mark 'UNIOFFICE', for goods in class 16

Decision of the Cancellation Division: Revoked the challenged Community trade mark in respect of part of the goods

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 15(1) in combination with Article 42(2) and (3) of Council Regulation No 207/2009 and Rule 22(3) and (4) of Commission Regulation No 2868/95

— Infringement of Article 8(1)(b) of Council Regulation No 207/2009.