

Action brought on 3 December 2007 — Harwin International v OHIM — Cuadrado (Pickwick)**(Case T-450/07)**

(2008/C 37/50)

*Language in which the application was lodged: English***Parties***Applicant:* Harwin International LLC (Albany, United States) (represented by: D. Przedborski, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal:* Cuadrado SA (Paterna, Spain)**Form of order sought**

- Annulment of the decision of the OHIM's Second Board of Appeal in Case R 1245/2006-2, rendered on 10 September 2007;
- order the defendant and Cuadrado SA to bear their own costs and to reimburse the costs incurred by the applicant.

Pleas in law and main arguments

Registered Community trade mark subject of the application for a declaration of invalidity: The figurative trade mark containing the word components 'PICKWICK COLOUR GROUP' for goods and services in Class 25 — application No 826669

Proprietor of the Community trade mark: Harwin International LLC*Party requesting the declaration of invalidity of the Community trade mark:* Cuadrado SA

Trade mark right of the party requesting the declaration of invalidity: The earlier national word mark 'PICK OUIE, CUADRADO SA, VALENCIA' and the figurative trade mark containing the word elements 'Pick Ouie' for goods in class 25

Decision of the Cancellation Division: Declared the mark applied for invalid in its entirety*Decision of the Board of Appeal:* Dismissed the appeal*Pleas in law:* Infringement of Articles 8(1)(b) and 56(2) and (3) of Council Regulation (EC) No 40/94.

The applicant claims that the Board's finding as to the non-examination by the Cancellation Division of the evidence submitted by Cuadrado is inconsistent and contrary to law. Furthermore, the applicant submits that there is no likelihood of confusion between the trademarks concerned.

Action brought on 10 December 2007 — WellBiz v OHIM — Wild (WELLBIZ)**(Case T-451/07)**

(2008/C 37/51)

*Language in which the application was lodged: German***Parties***Applicant:* WellBiz Verein, WellBiz Association (Eschen, Liechtenstein) (represented by: M. Schnetzer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal:* Rudolf Wild GmbH & Co. KG (Eppelheim, Germany)**Form of order sought**

- To annul the decision of the First Board of Appeal of 2 October 2007 in Case R 1575/2006-1;
- To reject Opposition No B 809 394 of the opponent of 9 March 2005;
- To order OHIM and the opponent to pay the costs of the present case and also those incurred in the opposition and appeal proceedings before OHIM.

Pleas in law and main arguments*Applicant for a Community trade mark:* the applicant.

Community trade mark concerned: the word mark 'WELLBIZ' in respect of services in Classes 35 and 41 (application No 3 844 479).

Proprietor of the mark or sign cited in the opposition proceedings: Rudolf Wild GmbH & Co. KG.

Mark or sign cited in opposition: the word mark 'WILD.BIZ' for services in Classes 38, 41 and 42 (Community trade mark No 2 225 175), the opposition being based on some of the services in Class 41.

Decision of the Opposition Division: Opposition upheld in relation to all the contested services in Class 41.*Decision of the Board of Appeal:* Dismissal of the appeal.

Pleas in law: Breach of Article 8(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾, since the marks in question differ phonetically, figuratively and conceptually, and the mark cited in opposition does not enjoy a particularly high degree of recognition and does not therefore possess a high level of distinctiveness.

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

Action brought on 11 December 2007 — Dylog Italia/OHIM — GSI Office Management (IP Manager)

(Case T-453/07)

(2008/C 37/52)

Language in which the application was lodged: English

Parties

Applicant: Dylog Italia SpA (Turin, Italy) (represented by: A. Ruio, lawyer)

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

Other party to the proceedings before the Board of Appeal: GSI Office Management GmbH (Planegg, Germany)

Form of order sought

- Annulment of the decision of 27 September 2007, of the First Board of Appeal R982/2005-4, in so far as the Board established that there was no likelihood of confusion in respect of all the services for which registration is sought in classes 35, 38 and the services in class 42 which were found similar to the goods covered by the earlier Italian mark; and subsidiarily
- annulment of the contested decision in so far as the Board established that there was no likelihood of confusion in respect of all the services in class 38 and the services in class 42 which were found similar to the goods covered by the earlier Italian mark;
- the Office for the Harmonisation in the Internal market (OHIM) be ordered to pay the applicant's costs in accordance with Article 87(2) of the rules of procedure of the Court of First Instance.

Pleas in law and main arguments

Applicant for the Community trade mark: GSI Office Management GmbH

Community trade mark concerned: The Community word mark 'IP MANAGER' for services in classes 35, 36, 38, 41 and 42 — application No 2 177 277

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

Mark or sign cited: The earlier national and international word marks 'MANAGER' for goods in classes 9, 16, 35, 37, 39, 41 and 42 and the national word mark 'HOTEL MANAGER' for goods and services in classes 9 and 42

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 Article 8 of Council Regulation (EC) No 40/94.

Order of the Court of First Instance of 12 December 2007 — Sandoz v Commission

(Case T-105/04) ⁽¹⁾

(2008/C 37/53)

Language of the case: English

The President of the Sixth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 106, 30.4.2004.

Order of the Court of First Instance of 11 December 2007 — UPS Europe and UPS Deutschland v Commission

(Case T-329/07) ⁽¹⁾

(2008/C 37/54)

Language of the case: English

The President of the Court of First Instance (First Chamber) has ordered that the case be removed from the register.

⁽¹⁾ OJ C 247, 20.10.2007.