

Judgment of the General Court of 28 June 2011 — ATB Norte v OHIM — Bricocenter Italia (BRICO CENTER)

(Case T-476/09) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark BRICO CENTER — Earlier Community figurative marks ATB CENTROS DE BRICOLAGE Brico Centro and CENTROS DE BRICOLAGE BricoCentro — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2011/C 232/43)

Language of the case: Italian

Parties

Applicant: ATB Norte, SL (Burgos, Spain) (represented initially by P. López Ronda, G. Macias Bonilla, H. Curtis-Oliver and G. Marín Raigal, and subsequently by F. Brandolini Kujman, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: O. Montalto and G. Mannucci, Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Bricocenter Italia Srl (Rozzano, Italy) (represented by: G. Ghidini, M. Mergati and C. Signorini, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 24 September 2009 (Case R 1006/2008-4) relating to opposition proceedings between ATB Norte, SL and Bricocenter Italia Srl.

Operative part of the order

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 24 September 2009 (Case R 1006/2008-4) inasmuch as it upheld the appeal of Bricocenter Italia Srl before the Board of Appeal regarding the services of 'advertising', 'business management' and 'business administration' covered by the Community trade mark application;
2. Dismisses the remainder of the action;
3. Orders ATB Norte, SL, Bricocenter Italia and OHIM each to bear their own costs incurred during the proceedings before the General Court.

⁽¹⁾ OJ C 24, 30.1.2010.

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Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 24 September 2009 (Case R 1008/2008-4) relating to opposition proceedings between ATB Norte, SL and Bricocenter Italia Srl.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 24 September 2009 (Case R 1008/2008-4) inasmuch as it upheld the appeal of Bricocenter Italia Srl before the Board of Appeal regarding the services of 'advertising', 'business management' and 'business administration' covered by the Community trade mark application;
2. Dismisses the remainder of the action;
3. Orders ATB Norte, SL, Bricocenter Italia and OHIM each to bear their own costs incurred during the proceedings before the General Court.

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