

Action brought on 16 November 2009 — CheapFlights International v OHIM — Cheapflights (Cheapflights)

(Case T-460/09)

(2010/C 24/103)

Language in which the application was lodged: English

Parties

Applicant: CheapFlights International Ltd (Ballybofey, Ireland) (represented by: H. Hartwig and A. von Mühlendahl, lawyers)

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

Other party to the proceedings before the Board of Appeal: Cheapflights Ltd (London, United Kingdom)

Form of order sought

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 31 August 2009 in case R 1356/2007-4;
- Dismiss the appeal filed by the other party to the proceedings before the Board of Appeal against the decision of the Opposition Division of the defendant of 22 June 2007 in opposition proceedings B 806 531;
- Order the defendant to pay the costs, including those incurred by the applicant before the Board of Appeal; and
- Order the other party to the proceedings before the Board of Appeal to pay the costs of the proceedings, including those incurred by the applicant before the Board of Appeal, should it decide to become an intervener in this case.

Pleas in law and main arguments

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

Community trade mark concerned: The figurative mark “Cheapflights”, for goods and services in classes 9, 16, 35, 38, 39, 41, 42, 43 and 44

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

Mark or sign cited: Irish trade mark registration of the figurative sign “CheapFlights”, for services in classes 35, 36, 38, 39, 41,

42, 43 and 44; Irish trade mark application of the word mark “CHEAPFLIGHTS”, for services in classes 35, 39 and 43; Irish trade mark registration of the word mark “CHEAPFLIGHTS”, for services in classes 38, 41, 42 and 44; Irish trade mark registration of the figurative sign “CheapFlights.ie”, for service in classes 35, 39, 41, 42 and 43; International trade mark registration of the figurative sign “CheapFlights”, for services in classes 35, 38, 39 and 42

Decision of the Opposition Division: Upheld the opposition partially

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

Pleas in law: Infringement of Articles 8(1)(b) of Council Regulation No 207/2009 as the Board of Appeal wrongly held that there was no likelihood of confusion between the trade marks concerned.

Action brought on 16 November 2009 — CheapFlights International v OHIM — Cheapflights (Cheapflights)

(Case T-461/09)

(2010/C 24/104)

Language in which the application was lodged: English

Parties

Applicant: CheapFlights International Ltd (Ballybofey, Ireland) (represented by: H. Hartwig and A. von Mühlendahl, lawyers)

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

Other party to the proceedings before the Board of Appeal: Cheapflights Ltd (London, United Kingdom)

Form of order sought

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 31 August 2009 in case R 1607/2007-4;
- Dismiss the appeal filed by the other party to the proceedings before the Board of Appeal against the decision of the Opposition Division of the defendant of 10 August 2007 in opposition proceedings B 849 150;

- Order the defendant to pay the costs, including those incurred by the applicant before the Board of Appeal; and
- Order the other party to the proceedings before the Board of Appeal to pay the costs of the proceedings, including those incurred by the applicant before the Board of Appeal, should it decide to become an intervener in this case.

Pleas in law and main arguments

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

Community trade mark concerned: The figurative mark in black and white “Cheapflights”, for services in classes 38, 39, 41, 42, 43 and 44

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

Mark or sign cited: Irish trade mark registration of the figurative sign in colour “CheapFlights”, for services in classes 35, 36, 38, 39, 41, 42, 43 and 44; Irish trade mark application of the word mark “CHEAPFLIGHTS”, for services in classes 35, 39 and 43; Irish trade mark registration of the word mark “CHEAPFLIGHTS”, for services in classes 38, 41, 42 and 44; Irish trade mark registration of the figurative sign “CheapFlights.ie”, for service in classes 35, 39, 41, 42 and 43; International trade mark registration of the figurative sign “CheapFlights”, for services in classes 35, 38, 39 and 42

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

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

Pleas in law: Infringement of Articles 8(1)(b) of Council Regulation No 207/2009 as the Board of Appeal wrongly held that there was no likelihood of confusion between the trade marks concerned.

Action brought on 19 November 2009 — Jurašinović v Council

(Case T-465/09)

(2010/C 24/105)

Language of the case: French

Parties

Applicant: Ivan Jurašinović (Angers, France) (represented by: M. Jarry, lawyer)

Defendant: Council of the European Union

Form of order sought

- Annul the decision of 22 September 2009 by which the applicant was granted only partial access to the following documents: reports of observers of the European Union in Croatia on the Knin zone from 1 August to 31 August 1995;
- order the Council of the European Union — Secretariat-General to grant electronic access to all parts of the documents sought;
- order the Council of the European Union to pay the applicant EUR 2 000 exclusive of tax or EUR 2 392 inclusive of tax in procedural indemnity with interest, at the rate determined by the ECB in respect of the day the application was lodged.

Pleas in law and main arguments

By the present action, the applicant seeks annulment of the decision of 22 September 2009 refusing to grant him full access to the reports of the European Union observers in Croatia on the Knin zone from 1 August to 31 August 1995.

The applicant raises three pleas in support of his action.

- disclosure would not undermine the protection of the public interest as regards international relations in accordance with Article 4(1) of Regulation No 1049/2001 ⁽¹⁾ in so far as:
- no specific legal protection may apply to the documents at issue;
- even supposing that specific protection may apply to the documents sought, Article 4(7) of Regulation No 1049/2001 provides that ‘the exceptions as laid down in paragraphs 1 to 3 shall only apply for the period during which protection is justified on the basis of the content of the document.’ Half of the maximum period of protection laid down in Article 4(7) has already passed, which justifies the grant of access to the documents sought;
- finally, the documents sought are not sensitive documents within the meaning of Article 9 of Regulation No 1049/2001;