

Judgment of the General Court of 27 February 2014 — Advance Magazine Publishers v OHIM — López Cabré (VOGUE)

(Case T-229/12) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark VOGUE — Earlier Community word mark VOGUE — Likelihood of confusion — Identity or similarity of the goods — Identity or similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 — Vagueness of the trade mark application — Article 26(1)(c) of Regulation No 207/2009 — Rule 2(2) of Regulation (EC) No 2868/95 — Partial refusal to register)

(2014/C 112/37)

Language of the case: English

Parties

Applicants: Advance Magazine Publishers, Inc. (New York, New York, United States of America) (represented by: C. Aikens, Barrister)

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

Other party to the proceedings before the Board of Appeal of OHIM: Eduardo López Cabré (Barcelona, Spain)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 26 March 2012 (case R 1170/2011-4), concerning opposition proceedings between Mr Eduardo López Cabré and Advance Magazine Publishers, Inc.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of OHIM of 26 March 2012 (case R 1170/2011-4), concerning opposition proceedings between Mr Eduardo López Cabré and Advance Magazine Publishers, Inc., in so far as it confirmed the Opposition Division's decision of 18 March 2011 upholding the opposition for accessories in Class 18 of the Nice Agreement concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended.
2. Dismisses the remainder of the claim for annulment of the decision referred to at paragraph 1 of the operative part.
3. Declares that there is no need to adjudicate on the claim for the opposition to be upheld solely in relation to umbrellas, parasols and accessories for umbrellas and parasols.
4. Orders each party to bear its own costs.

⁽¹⁾ OJ C 227, 28.7.2012.

Judgment of the General Court of 5 March 2014 — HP Health Clubs Iberia v OHIM — Shiseido (ZENSATIONS)

(Case T-416/12) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark ZENSATIONS — Earlier Community word mark ZEN — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Admissibility of the applicant's form of order — Article 46 of the Rules of Procedure — Obligation to state reasons — First sentence of Article 75 of Regulation No 207/2009 — Examination of the facts by the Office of its own motion — Article 76(1) of Regulation No 207/2009)

(2014/C 112/38)

Language of the case: Spanish

Parties

Applicant: HP Health Clubs Iberia (Barcelona, Spain) (represented by: S. Serrat Viñas, lawyer)

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

Intervener in support of the defendant: Shiseido Company Ltd (Tokyo, Japan) (represented by: B. Moreau-Margotin, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 6 June 2012 (Case R 2212/2010-1) relating to opposition proceedings between Shiseido Company Ltd and HP Health Clubs Iberia S.A.

Operative part of the judgment

The Court:

1. *Dismisses the action.*
2. *Dismisses the heads of claims of Shiseido Company Ltd other than that essentially seeking the dismissal of the action as manifestly inadmissible.*
3. *Orders HP Health Clubs Iberia S.A. to bear its own costs and those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM.)*
4. *Orders Shiseido Company Ltd to bear its own costs.*

⁽¹⁾ OJ C 355, 17.11.2012.

Judgment of the General Court of 27 February 2014 — Mäurer & Wirtz v OHIM — Sacra (4711 Aqua Mirabilis)

(Case T-25/13) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community word mark 4711 Aqua Mirabilis — Earlier Community word mark AQUA ADMIRABILIS — Relative ground for refusal — Likelihood of confusion — Distinctive character of the earlier mark — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2014/C 112/39)

Language of the case: German

Parties

Applicant: Mäurer & Wirtz GmbH & Co. KG (Stolberg, Germany) (represented by: T. Schulte-Beckhausen and S. Hühner, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: Sacra Srl (Venice, Italy)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 13 November 2012 (Case R 1601/2011-2) relating to opposition proceedings between Sacra Srl and Mäurer & Wirtz GmbH & Co. KG.