

— the CST is required, contrary to what is stated at paragraph 50 of the judgment under appeal, to examine the plea of illegality in respect of the eight year rule, a plea which was raised when the request for extension of the contract as a temporary member of staff was rejected.

2. Second ground of appeal, alleging an error of law, on the basis that the CST took the view that the AECE had taken the contested decision with due regard to the interests of the service, even though the CST stated that the Commission had acknowledged at the hearing that only budgetary constraints could have been invoked at first instance as justification for the contested decision. The appellant also submits that the CST failed to have regard to its duty to state reasons and its duty to examine all the breaches of law alleged before it, in that it failed to make any reference to the appellant's arguments concerning the contradiction between the reasons given relating to the laying off of staff due to budgetary constraints and the creation of new posts for temporary staff at Grade AD9.

Action brought on 4 January 2013 — Advance Magazine Publishers/OHIM — Montres Tudor (GLAMOUR)

(Case T-1/13)

(2013/C 86/29)

Language in which the application was lodged: English

Parties

Applicant: Advance Magazine Publishers, Inc. (New York, United States) (represented by: T. Raab, H. Lauf and V. Ahmann, lawyers)

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

Other party to the proceedings before the Board of Appeal: Montres Tudor SA (Geneva, Switzerland)

Form of order sought

The applicant claims that the Court should:

- Fully set aside the decision of the Second Board of Appeal of the Office for the Harmonization in the Internal Market (Trade Marks and Designs) of 10 October 2012, appeal no. R 0231/2012-2;
- award the costs of the proceedings against the defendant and the other party to the proceedings before the Board of Appeal of OHIM.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'GLAMOUR' Community trade mark application No 9 380 916

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: International registration with effect in the Community, 'TUDOR GLAMOUR' for goods in class 14

Decision of the Opposition Division: Upheld the opposition for all the contested goods

Decision of the Board of Appeal: Dismissed the appeal

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

Action brought on 4 January 2013 — Sherwin-Williams Sweden/OHIM — Akzo Nobel Coatings International (ARTI)

(Case T-12/13)

(2013/C 86/30)

Language in which the application was lodged: English

Parties

Applicant: Sherwin-Williams Sweden AB (Märsta, Sweden) (represented by: L. Ström, lawyer)

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

Other party to the proceedings before the Board of Appeal: Akzo Nobel Coatings International BV (Arnhem, Netherlands)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the OHIM First Board of Appeal No R 2085/2011-1 dated, 18 October 2012, (confirming the decision of the Opposition Division Opposition No B 1 717 142, dated 9 August 2011);
- Award the costs in favour of the applicant.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark 'ARTI' for goods in class 2 — Community trade mark registration No 9 017 427

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: Benelux trade mark registration No 753 216 and International Trade mark registration No 872 478 of the word mark 'ARTITUDE' for goods in class 2

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) of Council Regulation No 207/2009.

Action brought on 3 January 2013 — MasterCard International/OHIM — Nehra (surfpin)

(Case T-13/13)

(2013/C 86/31)

Language in which the application was lodged: English

Parties

Applicant: MasterCard International, Inc. (New York, United States) (represented by: N. Bolter and C. Sawdy, solicitors)

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

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision under Articles 8(1)(b), 8(4) and 8(5) CTMR;
- Uphold the applicant's opposition filed against the respondent's mark in its entirety;
- In the alternative, uphold the applicant's opposition in respect of such services for which it is found that a likelihood of confusion exists and/or for such services where it is determined there exists a risk of the application mark taking unfair advantage of, or being detrimental to, the distinctive character or repute of the applicant's mark; and
- Order the respondent to pay the cost of the applicant.

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 in blue, black and white containing the word element 'surfpin' and a device of three overlapping circles for services in classes 36 — Community trade mark application No 8 368 862

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

Mark or sign cited in opposition: Figurative marks in different colours containing a device of overlapping circles and some of them the word elements 'MasterCard Worldwide' or 'MasterCard' — Community trade mark registration No 5 198 585, Community trade mark registration No 5 198 494, UK trade mark registration No 2 425 471, UK trade mark registration No 2 429 669, Community trade mark registration No 5 646 261, Community trade mark registration No 761 221, Community trade mark registration No 5 646 492 and Community trade mark registration No 5 646 609 for goods and services in classes 3, 5, 6, 9, 12, 14, 16, 18, 20, 21, 24, 25, 27, 28, 35, 36, 38, 39, 41, 42, 43, 44 and 45

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Articles 8(1)(b) and (4) and (5) of Council Regulation No 207/2009.

Action brought on 3 January 2013 — Seal Trademarks/OHIM — Exel Composites (XCEL)

(Case T-14/13)

(2013/C 86/32)

Language in which the application was lodged: English

Parties

Applicant: Seal Trademarks Pty Ltd (Queensland, Australia) (represented by: E. Armijo Chávarri, lawyer)

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

Other party to the proceedings before the Board of Appeal: Exel Composites Oyj (Mäntyharju, Finland)

Form of order sought

The applicant claims that the Court should:

- Annul the Second Board of Appeal's Decision of 11 October 2012 or;
- Subsidiarily, modify it, because it goes contrary to Articles 42, paragraphs 2 and 3, and 8, paragraph 1, letter b) of the CTMR (expressly sentencing OHIM to court fees).

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant