Judgment of the Court (Seventh Chamber) of 10 November 2011 — LG Electronics v OHIM

(Case C-88/11 P)

(Appeal — Community trade mark — Word sign 'KOMPRESSOR PLUS' — Refusal to register — Regulation (EC) No 40/94 — Article 7(1)(c) — Descriptive character — Consideration of new evidence by the General Court — Distortion of the facts and evidence)

1. *Community trade mark — Procedural provisions — Examination of the facts of the Office's own motion — Scope — No obligation to prove matters of common knowledge — Issue before the General Court — Documents produced in order to substantiate the accuracy of a fact of common knowledge (Council Regulation No 40/94, Art. 74(1)) (see paras 26-30)*

2. *Appeals — Grounds — Incorrect assessment of the facts and evidence — Inadmissibility — Review by the Court of the assessment of the facts and evidence — Possible only where the clear sense of the evidence has been distorted (Art. 256(1) TFEU; Statute of the Court of Justice, Art. 58, first para.) (see paras 36-37)*

Re:

Appeal against the judgment of the General Court (Second Chamber) of 16 December 2010 in Case T-497/09 *LG Electronics* v *OHIM* dismissing the appellant's action against the decision of the First Board of Appeal of OHIM of 23 September 2009 (Case R 397/2009-1) concerning an application for registration of the word sign KOMPRESSOR PLUS as a Community trade mark – Descriptive nature of the mark – Article 7(1)(c) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1) – Consideration of new facts by the General Court – Distortion of the evidence.

Operative part

The Court:

1. Dismisses the appeal;

2. Orders LG Electronics Inc. to pay the costs.

Order of the President of the Court of 11 November 2011 — Nencini v Parliament

(Case C-530/10 P(R))

(Appeal — Application for interim measures — Member of the European Parliament — Recovery of allowances paid by way of repayment of parliamentary assistance and travel expenses — Application for suspension of operation of a measure — Lack of any urgency)

1. *Applications for interim measures — Appeals — Suspension of operation of a measure — Claim relating to measures drafted in a language other than that of the addressee — Contested measures replaced by new measures essentially the same in substance but drafted in another language — No need to adjudicate — (Art. 278 TFEU; Rules of Procedure of the Court of Justice, Art. 83) (see paras 16-19)*

2. *Applications for interim measures — Conditions of admissibility — Application — Formal requirements — Pleas establishing a prima facie case for the measures applied for — Lodging of a supplementary pleading for the purpose of putting right deficiencies — Incompatibility with proceedings for interim measures (Arts 278 TFEU and 279 TFEU; Rules of Procedure of the General Court, Art. 104(2)) (see paras 28-31, 37)*