INFORMATION ON UNPUBLISHED DECISIONS

Reports of Cases

Order of the Court (Sixth Chamber) of 21 March 2012 — Fidelio v OHIM

(Case C-87/11 P)

(Appeal — Article 119 of the Rules of Procedure — Community trade mark — Regulation (EC) No 40/94 — Article 7(1)(c) — Word mark Hallux — Refusal to register — Absolute ground for refusal — Appeal in part manifestly inadmissible and in part manifestly unfounded)

1. *Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Separate consideration of the pleas in law having regard to every one of the products or services covered by the application for registration — Obligation to state the reasons for refusing to register — Extent (Council Regulation No 40/94, Arts 7(1)(c) and 73) (see para. 43)*

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 para. 59)*

Re:

Appeal brought against the judgment of the General Court (Third Chamber) of 16 December 2010 in Case T-286/08 *Fidelio* v *OHIM*, by which the General Court dismissed the action for annulment brought against the decision of the Fourth Board of Appeal of OHIM of 21 May 2008 concerning registration of the word sign Hallux as a Community trade mark for certain goods in Classes 10 and 25 (orthopaedic articles and footwear) — Distinctive character of a word sign meaning 'big toe' in Latin.

Operative part

1. The appeal is dismissed.

2. Fidelio KG is ordered to pay the costs.