

**Form of order sought**

The applicant claims that the General Court should:

- annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 7 February 2013 in Case R 1401/2012-1 so as to dismiss the opposition filed and grant the Community trade mark application No 6 798 862 'PEPE CASTELL', and order the opponent to pay the costs of both sets of proceedings;
- order OHIM, as defendant, to bear its own costs and to pay those incurred by the applicant in the present action;
- if necessary, order the intervener to bear its own costs and to pay those incurred by the applicant in these proceedings.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* José Castell Macía

*Community trade mark concerned:* Word mark 'PEPE CASTELL' for goods and services in Classes 16, 25 and 39 — Community trade mark application No 6 798 862

*Proprietor of the mark or sign cited in the opposition proceedings:* PJ Hungary Szolgáltató kft

*Mark or sign cited in opposition:* Figurative mark with word elements 'Pepe Jeans FOOTWEAR' for goods in Class 25

*Decision of the Opposition Division:* Opposition upheld

*Decision of the Board of Appeal:* Appeal dismissed

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

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**Action brought on 2 May 2013 — MHCS/OHIM — Ambra (DORATO)**

**(Case T-249/13)**

(2013/C 207/65)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* MHCS (Epernay, France) (represented by: P. Boutron, N. Moya Fernández and L-E. Balleydier, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Ambra S.A. (Warsaw, Poland)

**Form of order sought**

The applicant claims that the Court should:

— Declare admissible the here concerned appeal and enclosures;

— Annul the Second Board of Appeal's decision;

— Condemn the OHIM and the intervener to bear the costs.

**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 containing a device of a bottle neck label and the word element 'DORATO' for goods in class 33 — Community trade mark application No 9 131 228

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

*Mark or sign cited in opposition:* Figurative marks containing a device of a bottle neck label for goods in class 33

*Decision of the Opposition Division:* Rejected 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.

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**Action brought on 2 May 2013 — Naazneen Investments/OHIM — Energy Brands (SMART WATER)**

**(Case T-250/13)**

(2013/C 207/66)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* Naazneen Investments Ltd (Limassol, Cyprus) (represented by: P. Goldenbaum, I. Rohr and T. Melchert, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Energy Brands, Inc. (New York, United States)

**Form of order sought**

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal in Case R 1101/2011-2;

— Order the defendant to pay its own costs and those of the applicant.

**Pleas in law and main arguments**

*Registered Community trade mark in respect of which an application for revocation has been made:* The word mark 'SMART WATER', Community trade mark registration No 781 153

*Proprietor of the Community trade mark:* The applicant

*Party applying for revocation of the Community trade mark:* The other party to the proceedings before the Board of Appeal

*Decision of the Cancellation Division:* Revoked the Community trade mark

*Decision of the Board of Appeal:* Dismissed the appeal

*Pleas in law:* Infringement of Article 51(1)(a) of Council Regulation No 207/2009.

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**Action brought on 6 May 2013 — Orthogen v OHIM — Arthrex Medizinische Instrumente (IRAP)**

(Case T-253/13)

(2013/C 207/67)

*Language in which the application was lodged:* German

**Parties**

*Applicant:* Orthogen AG (Düsseldorf, Germany) (represented by: M. Finger and S. Krüger, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Arthrex Medizinische Instrumente GmbH (Karlsfeld, Germany)

**Form of order sought**

The applicant claims that the General Court should:

- annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 February 2013 in Case R 382/2012-1;
- order OHIM to pay the costs of the proceedings, including those incurred before the Board of Appeal.

**Pleas in law and main arguments**

*Registered Community trade mark in respect of which a declaration of invalidity has been sought:* Word mark 'IRAP' for goods and services in Classes 1, 5, 10, 42 and 44 — Community trade mark No 3 609 121

*Proprietor of the Community trade mark:* The applicant

*Applicant for the declaration of invalidity of the Community trade mark:* Arthrex Medizinische Instrumente GmbH

*Grounds for the application for a declaration of invalidity:* Absolute ground for invalidity; 'IRAP' is a commonly used abbreviation for a certain protein which plays a significant role in certain medical and veterinary treatments.

*Decision of the Cancellation Division:* Application for a declaration of invalidity granted

*Decision of the Board of Appeal:* Appeal dismissed

*Pleas in law:* Infringement of Article 52(1)(a) of Regulation No 207/2009 and of Article 7(1)(b) of Regulation No 207/2009.

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**Action brought on 6 May 2013 — Stayer Ibérica/OHIM — Korporaciya 'Masternet' (STAYER)**

(Case T-254/13)

(2013/C 207/68)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* Stayer Ibérica, SA (Pinto, Spain) (represented by: S. Rizzo, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* ZAO Korporaciya 'Masternet' (Moscow, Russia)

**Form of order sought**

The applicant claims that the Court should:

- Annul the contested decision in so far as it upholds the appeal in part and declares the CTM registration No 4675881 invalid for the following goods:
  - Class 7: Equipment and tools; parts of cutting and polishing diamond machines; bits and cutting wheels for the following industries; marble, granite, stone, clay, slabs, tiles and brick, and, in general terms, cutting tools as parts of equipment included in Class 7.
  - Class 8: Hand held abrasive items (wheels and grinding wheels).
- Order OHIM to pay the costs.

**Pleas in law and main arguments**

*Registered Community trade mark in respect of which a declaration of invalidity has been sought:* The figurative mark 'STAYER' — Community trade mark registration No 4 675 881