

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order OHIM to pay the costs incurred by the applicant during these proceedings;
- order Guess? IP Holder L.P. to pay the costs incurred by the applicant in the proceedings before both the OHIM Cancellation Division and the Board of Appeal.

Pleas in law

- Infringement of Article 75 of Regulation No 207/2009;
- Infringement of Article 8(1)(b) of Regulation No 207/2009;
- Infringement of Article 8(5) of Regulation No 207/2009.

Action brought on 14 August 2015 — Capella v OHIM — Abus (APUS)**(Case T-473/15)**

(2015/C 328/30)

*Language in which the application was lodged: German***Parties**

Applicant: Capella EOOD (Sofia, Bulgaria) (represented by: F. Henkel, lawyer)

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

Other party to the proceedings before the Board of Appeal: Abus August Bremicker Söhne KG (Wetter/Volmarstein, Germany)

Details of the proceedings before OHIM

Applicant: Capella EOOD

Trade mark at issue: Community word mark 'APUS' — Application for registration No 10 415 511

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 2 June 2015 in Case R 117/2014-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and refer the case back to the Board of Appeal;

— order OHIM to pay the costs.

Plea in law

— Infringement of the second sentence of Article 75 of Regulation No 207/2009.

Action brought on 17 August 2015 — GGP Italy v Commission

(Case T-474/15)

(2015/C 328/31)

Language of the case: Italian

Parties

Applicant: Global Garden Products Italy SpA (GGP Italy) (Castelfranco Veneto, Italy) (represented by: A. Villani, L. D'Amario and M. Caccialanza, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Decision (EU) 2015/902, made on 10 June 2015 and published in the Official Journal of the European Union on 12 June 2015;
- adopt any further measures deemed appropriate;
- order the Commission to pay the costs.

Pleas in law and main arguments

The present action is for the annulment of Commission Implementing Decision (EU) 2015/902 of 10 June 2015 (OJ 2015 L 147, p. 22), in which the Commission held that a restrictive measure adopted by Latvia, pursuant to Article 11 of Directive 2006/42/EC of the European Parliament and of the Council, concerning a lawnmower produced by the applicant, was justified.

In support of its action, the applicant relies on two pleas in law.

1. First plea in law, alleging infringement of Article 20 of Directive 2006/42/EC, which states that any restrictive measure taken pursuant to that directive must '*state the exact grounds on which it is based*' and '*be notified as soon as possible to the party concerned, who shall at the same time be informed of the legal remedies available to him under the laws in force in the Member State concerned and of the time limits to which such remedies are subject*'.
- In that regard, the applicant complains that, since it was never notified of the restrictive measure adopted against it by the Latvian authorities, the contested decision regarded as justified a measure seriously prejudicial to its rights of the defence, as it was adopted at the end of a procedure which was not properly carried out and which was vitiated by serious irregularities, in particular formal ones.