

— a lack of adequate reasoning in the judgment under appeal, inasmuch as the Civil Service Tribunal did not comment on the fact that the documents on the file, leading to the decision which was contested before it, were contradictory, despite the fact that the appellant had raised those inconsistencies in his action at first instance.

*Mark or sign cited in opposition:* a national figurative mark, which includes the verbal elements 'Moselland Divinum', for goods in class 33.

*Decision of the Opposition Division:* Rejection of the opposition

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

**Action brought on 7 May 2010 — Moselland v OHIM —  
Renta Siete (DIVINUS)**

**(Case T-214/10)**

(2010/C 195/37)

*Language in which the application was lodged: German*

**Parties**

*Applicant:* Moselland eG — Winzergenossenschaft (Bernkastel-Kues, Germany) (represented by: M. Dippelhofer, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Renta Siete, SL (Albacete, Spain)

**Form of order sought**

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 22 February 2010 in Case R 1204/2009-2;

— order OHIM to pay the costs of the proceedings, including those incurred during the appeal proceedings.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* Renta Siete, SL

*Community trade mark concerned:* Word mark 'DIVINUS' for goods and services in classes 30, 33 and 35.

*Proprietor of the mark or sign cited in the opposition proceedings:* Moselland eG

*Pleas in law:*

Infringement of Article 76(2) of Regulation (EC) No 207/2009 <sup>(1)</sup>, and Rule 19(2) und Rule 20(1) of Regulation (EC) No 2868/95 <sup>(2)</sup>, as the Board of Appeal has not correctly and/or sufficiently addressed the substantiation of earlier rights, infringement of Article 76(1)(2) of Regulation (EC) No 207/2009, as the Board of Appeal did not confine itself to relying on the evidence submitted by the applicant, infringement of Article 78(1),(3) and (4) of Regulation (EC) No 207/2009 for incorrect evaluation of evidence and, as the Board of Appeal merely relied on a request for information despite having had evidence contrary to the information received already submitted to it, also infringement of Article 75(2) of Regulation (EC) No 207/2009, as the Board of Appeal failed to grant the applicant the opportunity to make known its views on the factual information gathered by OHIM, infringement of Rule 50(1) of Regulation (EC) No 2868/95, as the Board of Appeal incorrectly did not consider the presentation of an acknowledgement of receipt as sufficient evidence of submission of documents within the prescribed time-limit, infringement of Rule 50(1)(3) of Regulation (EC) No 2868/95 for misuse of power and finally infringement of Rule 51(b) of Regulation (EC) No 2868/95, as the Board of Appeal erred in not reimbursing the fee for appeal.

<sup>(1)</sup> Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

<sup>(2)</sup> Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

**Action brought on 11 May 2010 — Hellenic Republic v  
Commission**

**(Case T-215/10)**

(2010/C 195/38)

*Language of the case: Greek*

**Parties**

*Applicant:* Hellenic Republic (represented by: I. Khalkias, G. Skiani and E. Leftheriotou)