

The applicant submits, in particular, that the Commission made a manifest error of assessment in determining that the applicant was jointly and severally liable for the infringements allegedly committed by Roca France and Laufe Austria, substantially exceeding the maximum amount of the fine that may be fixed under Article 23(2) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty. <sup>(1)</sup>

It is also submitted that the contested decision disregards, without giving reasons, the considerable amount of evidence adduced, which, for the purposes of the attribution of liability and calculation of the fine, rebuts the presumption that the applicant exercised decisive influence over Roca France and Laufen Austria.

The applicant submits that the contested decision is contrary to the rights of the defence, since it attributed liability to the applicant on the basis of facts and subjective assessments not contained in the statement of objections, and in respect of which the applicant was not afforded the opportunity to give its views.

<sup>(1)</sup> OJ 2003 L 1, p. 1.

**Action brought on 13 September 2010 — Bottega Veneta International v OHIM (Shape of a handbag)**

(Case T-409/10)

(2010/C 301/89)

*Language in which the application was lodged: Italian*

**Parties**

*Applicant:* Bottega Veneta International Sarl (Luxembourg, Luxembourg) (represented by P. Roncaglia, G. Lazzarotti, M. Boletto and E. Gavuzzi, lawyers)

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

**Form of order sought**

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market of 16 June 2010 in Case R 1247/2009-1;
- Order the Office for Harmonisation in the Internal Market to pay the costs of the present proceedings and the proceedings before the Board of Appeal.

**Pleas in law and main arguments**

*Community trade mark concerned:* Trade mark consisting of a distinctive three-dimensional sign known as the 'veneta' bag (application for registration No 6632608) for goods in Class 18 ('bags and handbags').

*Decision of the Examiner:* Refused the application for registration.

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

*Pleas in law:* Infringement of Rule 9(3)(a) of Regulation No 2868/95 and Article 7(1)(b) and (3) of Regulation No 207/2009.

**Action brought on 13 September 2010 — Bottega Veneta International v OHIM (Shape of a handbag)**

(Case T-410/10)

(2010/C 301/90)

*Language in which the application was lodged: Italian*

**Parties**

*Applicant:* Bottega Veneta International Sarl (Luxembourg, Luxembourg) (represented by P. Roncaglia, G. Lazzarotti, M. Boletto and E. Gavuzzi, lawyers)

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

**Form of order sought**

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market of 16 June 2010 in Case R 1539/2009-1;
- Order the Office for Harmonisation in the Internal Market to pay the costs of the present proceedings and the proceedings before the Board of Appeal.

**Pleas in law and main arguments**

*Community trade mark concerned:* Trade mark consisting of a distinctive three-dimensional sign known as the 'Cabat' bag (application for registration No 6632566) for goods in Class 18 ('bags and handbags').

*Decision of the Examiner:* Refused the application for registration.

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