

*Other party to the proceedings before the Board of Appeal of OHIM:* Sisma SpA (Mantova, Italy)

### Form of order sought

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 July 2010 in Case R 1638/2008-4;
- Order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) 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 representing a rectangle with elephants for goods in Classes 10, 16, 21, 24 and 25

*Proprietor of the Community trade mark:* SISMA S.p.A.

*Applicant for the declaration of invalidity:* the applicant

*Trade mark right of applicant for the declaration:* international and national figurative marks representing an elephant and the national word mark 'elefanten' for goods in Classes 24 and 25

*Decision of the Cancellation Division:* rejection of the application for a declaration of invalidity

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

*Pleas in law:* Infringement of Article 53(1)(a) in conjunction with Article 8(1)(b) and (2)(a) of Regulation (EC) No 207/2009 <sup>(1)</sup> as the marks at issue are conceptually, visually and aurally similar and the applicant has expressly submitted that its trade marks have acquired a highly distinctive character as a result of intensive use or their reputation.

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

### Action brought on 21 September 2010 — Häfele v OHIM (Mixfront)

(Case T-425/10)

(2010/C 317/67)

*Language in which the application was lodged:* German

### Parties

*Applicant:* Häfele GmbH & Co. KG (Nagold, Germany) (represented by M. Eck and J. Dönch, 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 (Trade Marks and Designs) of 30 June 2010 in Case R 338/2010-1;
- order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.

### Pleas in law and main arguments

*Community trade mark concerned:* Word mark 'Mixfront' for goods in Classes 6 and 20.

*Decision of the Examiner:* Application refused.

*Decision of the Board of Appeal:* Appeal dismissed.

*Pleas in law:* Infringement of Article 7(1)(b), (c) and (d) of Regulation (EC) No 207/2009, <sup>(1)</sup> as the Community trade mark concerned is distinctive, is not descriptive and is not a name that has become customary.

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

### Action brought on 16 September 2010 — Moreda-Riviere Trefilerías SA v Commission

(Case T-426/10)

(2010/C 317/68)

*Language of the case:* Spanish

### Parties

*Applicant:* Moreda-Riviere Trefilerías SA (Gijón, Spain) (represented by F. González Díaz and A. Tresandi Blanco, lawyers)

*Defendant:* European Commission

### Form of order sought

- Annulment pursuant to Article 263 of the Treaty on the functioning of the European Union of the decision of the European Commission of 30 June 2010 C(2010) 4387 final on a proceeding under Article 101 TFEU in Case COMP/38.344 — Prestressing steel;
- or, in the alternative, annulment or reduction pursuant to Article 261 of the Treaty on the functioning of the European Union of the amount of the fine imposed by that decision;