

Pleas in law: Infringement of Article 59 of Council Regulation No 207/2009, as the Board of Appeal: (i) failed to properly assess the admissibility of the appeal, and (ii) violated Articles 85(3) and 83 of Council Regulation No 207/2009, by denying the legitimate interest to continue the proceedings.

Action brought on 27 December 2010 — Yilmaz v OHIM — Tequila Cuervo (TEQUILA MATADOR HECHO EN MEXICO)

(Case T-584/10)

(2011/C 55/57)

Language in which the application was lodged: English

Parties

Applicant: Mustafa Yilmaz (Stuttgart, Germany) (represented by: F. Kuschmirek, lawyer)

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

Other party to the proceedings before the Board of Appeal: Tequila Cuervo, SA de CV (Tlaquepaque, Mexico)

Form of order sought

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 13 October 2010 in case R 1162/2009-2; and
- Order the defendant to pay the costs of the proceedings.

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 'TEQUILA MATADOR HECHO EN MEXICO', for goods in class es 32 and 33 — Community trade mark application No 3975117

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

Mark or sign cited in opposition: German trade mark registration No 30205053.1 of the word mark 'MATADOR' for goods in class 32; International trade mark registration No 792051 of the word mark 'MATADOR' for goods in class 32

Decision of the Opposition Division: Upheld the opposition for all the contested goods

Decision of the Board of Appeal: Annulled the contested decision

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal wrongly assessed that there was no likelihood of confusion, as the trade marks in question are confusingly similar with regard to the goods for which the applied for trade mark seeks protection.

Action brought on 29 December 2010 — Castiglioni v Commission

(Case T-591/10)

(2011/C 55/58)

Language of the case: Italian

Parties

Applicant: Castiglioni Srl (Busto Arsizio, Italy) (represented by: G. Turri, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the contested measures, which are better described in the present application, by declaring them null and void and, therefore, order the European Commission to compensate for damage in a particular form, which may include a declaration that any contract which may have been entered into between the Commission and the successful tenderers was invalid, null and void or ineffective;
- **in the alternative**, annul the contested measures, which are better described in the present application, by declaring them null and void and, therefore, order the European Commission to compensate for the damage, including what is known as 'curricular damage', suffered by Castiglioni Srl in a commensurate amount to be quantified in the course of the proceedings, together with interest and monetary indexation to the date of actual payment;
- **in any event**, order the European Commission to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant relies on three grounds in support of its application: