

Form of order sought

- Annul the decision of the Commission of 4 November 2010, debit note No 3241011712, concerning the repayment of a sum in the amount of EUR 55 377,62;
- Order the defendant to pay the costs

Pleas in law and main arguments

The applicant relies on the following in support of its action:

1. Infringement of Community law due to an erroneous assessment of the facts and failure to assess the facts

The applicant submits that there was an erroneous assessment of the facts and failure to assess the facts as regards the eligibility of certain personnel expenses, subsistence expenses and travel costs. It also submits that there was an erroneous assessment of the facts and failure to assess the facts in connection with various services.

2. Infringement of Community law due to serious errors of reasoning

The applicant submits in this connection that there is a failure to state reasons in the debit note, erroneous reasoning as regards the granting and withdrawal of subsistence expenses and travel costs and a failure to state the reasons for the increase in the ineligible sum regarding the category of 'various services'.

**Action brought on 24 January 2011 — Peeters
Landbouwmachines v OHIM — Fors MW (BIGAB)**

(Case T-33/11)

(2011/C 80/47)

Language in which the application was lodged: English

Parties

Applicant: Peeters Landbouwmachines BV (Etten-Leur, Netherlands) (represented by: P.N.A.M. Claassen, lawyer)

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

Other party to the proceedings before the Board of Appeal: AS Fors MW (Saue, Republic of Estonia)

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 4 November 2010 in case R 210/2010-1;
- Order the defendant to declare invalid the registered Community trade mark subject of the application for invalidity, or order the defendant to declare invalid the registered Community trade mark subject of the application

for invalidity as far as it concerns the registration for Class 7; and

- Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The word mark 'BIGAB' for goods in classes 6, 7 and 12 — Community trade mark registration No 4363842

Proprietor of the Community trade mark: The other party to the proceedings before the Board of Appeal

Applicant for the declaration of invalidity of the Community trade mark: The applicant

Grounds for the application for a declaration of invalidity: The party requesting the declaration of invalidity grounded its request on absolute and relative grounds for invalidity pursuant to Articles 52(1)(b) and 53(1)(b) in conjunction with Article 8(4) of Council Regulation (EC) No 207/2009

Decision of the Cancellation Division: Rejected the application for a declaration of invalidity in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: The applicant contends that the Board of Appeal erred in its assessment of bad faith and failed to recognise the importance of similarity between the goods covered by the compared trade marks.

**Action brought on 24 January 2011 — Canon Europa v
Commission**

(Case T-34/11)

(2011/C 80/48)

Language of the case: English

Parties

Applicants: Canon Europa NV (Amstelveen, The Netherlands), (represented by: P. De Baere and P. Muñiz, lawyers)

Defendant: European Commission

Form of order sought

- Declare the action admissible;
- Annul Commission Regulation (EU) No 861/2010 of 5 October 2010 amending Annex I to Council Regulation (EEC) No 2658/87 on the tariff and statistical nomenclature and on the Common Customs Tariff (OJ 2010 L 284, p. 1) and in particular the subdivisions introduced under Harmonized System ('HS') subheading 8443 31 and the corresponding duty rates; and
- Order the defendant to pay the costs of these proceedings.