

- the CST did not make clear what was to be understood by ‘extended’ holidays;
- the CST took the view that the non-delivery notice which the appellant found in her letterbox on her return from holiday obviously related to the registered letter from the Parliament with its response to her claim.

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**Action brought on 23 February 2011 — Mizuno v OHIM — Golfino (G)**

(Case T-101/11)

(2011/C 120/37)

*Language in which the application was lodged: German*

**Parties**

*Applicant:* Mizuno Corp. (Osaka, Japan) (represented by: T. Raab and H. Lauf, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Golfino AG (Glinde, Germany)

**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 15 December 2010 in Case R 821/2010-1 in its entirety;
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* the applicant

*Community trade mark concerned:* the figurative mark containing the letter ‘G’ together with other symbols, for goods in Class 25

*Proprietor of the mark or sign cited in the opposition proceedings:* Golfino AG

*Mark or sign cited in opposition:* the figurative mark containing the letter ‘G’ together with a plus sign, for goods and services in Classes 18, 25 and 35

*Decision of the Opposition Division:* the opposition was rejected

*Decision of the Board of Appeal:* the appeal was granted and the application was rejected

*Pleas in law:* Infringement of Article 8(1)(b) and indirectly of Article 7(1)(b) of Regulation (EC) No 207/2009 <sup>(1)</sup> as there is no likelihood of confusion between the marks at issue

<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 February 2011 — EMA v Commission**

(Case T-116/11)

(2011/C 120/38)

*Language of the case: Italian*

**Parties**

*Applicant:* European Medical Association (EMA) (Brussels, Belgium) (represented by: A. Franchi, L. Picciano and N. di Castelnuovo, lawyers)

*Defendant:* European Commission

**Form of order sought**

- Declare that the action is admissible and well founded as to the substance;

**Principally:**

- find and declare that the EMA correctly complied with its contractual obligations under contracts 507760 DICOEMS and 507126 COCOON and is therefore entitled to reimbursement of expenditure incurred in the performance of those contracts as set out in FORMs C which were sent to the Commission, including FORM C relating to period IV under the COCOON contract;
- find and declare that the Commission’s decision to terminate those contracts, contained in the letter of 5 November 2010, is unlawful;
- accordingly, declare that there is no basis for the Commission’s claim for reimbursement of the sum of EUR 164 080,10 and, consequently, annul, withdraw — including by the issue of a corresponding credit note — the debit note of 13 December 2010 by which the Commission sought repayment of the above sum or, in any event, declare that that claim was unlawful;
- order the Commission to pay the remaining sums due to EMA claimed in FORMs C forwarded to the Commission, amounting to EUR 250 999,16;

**In the alternative:**

- establish the liability of the Commission on the ground of unjust enrichment and wrongful act;
- as a consequence, order the Commission to pay compensation for the financial loss and non-material damage suffered by the applicant, to be quantified in the course of the proceedings;