

## GENERAL COURT

### Action brought on 20 December 2011 — Commission v OHIM — Ten ewiv (TEN)

(Case T-658/11)

(2012/C 98/36)

*Language in which the application was lodged: English*

#### Parties

*Applicant:* European Commission (represented by: A. Berenboom, A. Joachimowicz and M. Isgour, lawyers, J. Samnadda and F. Wilman, Agents)

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

*Other party to the proceedings before the Board of Appeal:* Ten ewiv (Rösrath-Hoffnungstahl, Germany)

#### 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 11 October 2011 in case R 5/2011-4;
- Declare therefore invalid the Community trademark No 6750574 registered on 5 February 2009 by the other party to the proceedings before the Board of Appeal in classes 12, 37 and 39; and
- Order the defendant 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 'TEN' in the colours 'blue, yellow, black', for goods and services in classes 12, 37 and 39 — Community trade mark registration No 6750574

*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 grounds laid down in Article 52(1)(a) in conjunction with Article 7(1)(c) and (h) of Council Regulation (EC) No 207/2009

*Decision of the Cancellation Division:* Rejected the request for declaration of invalidity

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

*Pleas in law:* The contested decision infringes Article 7(1)(h) of Council Regulation No 207/2009 in conjunction with Article 6

ter (1) of the Paris Convention in so far as the Community trade mark ('CTM') has been registered, although its registration falls within the scope of prohibition laid down in those provisions. The contested decision also violates Article 7(1)(g) in so far as such a registration would deceive the public by making them believe that the products and services for which the CTM is registered are approved or endorsed by the European Union or one of its institutions.

### Action brought on 17 January 2012 — MAF v European Insurance and Occupational Pensions Authority

(Case T-23/12)

(2012/C 98/37)

*Language of the case: French*

#### Parties

*Applicant:* Mutuelle des Architectes Français assurances (MAF) (Paris, France) (represented by: S. Orlandi, A. Coolen, J.-N. Louis, E. Marchal and D. Abreu Caldas, lawyers)

*Defendant:* European Insurance and Occupational Pensions Authority

#### Form of order sought

The applicant claims that the Court should:

- annul the decisions to publish on the Authority's website all the information solely in English, including the public consultations launched on 7 and 8 November 2011 and 21 December 2011;
- to the extent necessary, annul the Authority's decision of 16 January 2012;
- order the Authority to pay the costs.

#### Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging infringement of Articles 8(1)(k) and 73 of Regulation No 1094/2010<sup>(1)</sup> in that those provisions require the defendant to publish on its website information relating to its activities in all the official languages of the European Union (EU). The applicant alleges a manifest error of assessment and an error of law in so far as the defendant justifies the refusal to publish the public consultations at issue in the applicant's language, in particular on grounds of cost, whereas it is stated in Article 73(3) of Regulation No 1094/2010 that the translation services required for the functioning of the Authority are to be provided by the Translation Centre for the Bodies of the European Union.