

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

*Other party to the proceedings before the Board of Appeal:* s.Oliver Bernd Freier GmbH & Co. KG (Rottendorf, Germany)

### Form of order sought

The applicant claims that the Court should:

- annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 July 2012 in Case R 2011/2010-4 in respect of Community trade mark application No 6 589 808 and alter that decision to the effect that the appeal is well founded and that the opposition must as a result also be rejected as to the remainder;
- order the defendant to pay the costs including those incurred in the course of the appeal proceedings.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* the applicant

*Community trade mark concerned:* the word mark 'COSMA' for goods and services in Classes 24, 25 and 35 — Community trade mark application No 6 589 808

*Proprietor of the mark or sign cited in the opposition proceedings:* s.Oliver Bernd Freier GmbH & Co. KG

*Mark or sign cited in opposition:* the figurative mark including the word element 'comma' and the national word mark 'comma' for goods and services in Classes 3, 6, 9, 14, 18, 20, 25, 26, 28 and 35

*Decision of the Opposition Division:* the opposition was upheld in part

*Decision of the Board of Appeal:* the appeal was dismissed

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation No 207/2009

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### Action brought on 6 September 2012 — Cosma Moden v OHIM — s.Oliver Bernd Freier (COSMA)

(Case T-399/12)

(2012/C 331/59)

*Language in which the application was lodged:* German

#### Parties

*Applicant:* Cosma Moden GmbH & Co. KG (Emsdetten, Germany) (represented by: J. Meyer, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* s.Oliver Bernd Freier GmbH & Co. KG (Rottendorf, Germany)

### Form of order sought

The applicant claims that the Court should:

- annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 July 2012 in Case R 2010/2010-4 in respect of Community trade mark application No 6 593 479 and alter that decision to the effect that the appeal is well founded and that the opposition must as a result also be rejected as to the remainder;

### Pleas in law and main arguments

*Applicant for a Community trade mark:* the applicant

*Community trade mark concerned:* the figurative mark including the word element 'COSMA' for goods and services in Classes 24, 25 and 35 — Community trade mark application No 6 593 479

*Proprietor of the mark or sign cited in the opposition proceedings:* s.Oliver Bernd Freier GmbH & Co. KG

*Mark or sign cited in opposition:* the figurative mark including the word element 'comma' and the national word mark 'comma' for goods and services in Classes 3, 6, 9, 14, 18, 20, 25, 26, 28 and 35

*Decision of the Opposition Division:* the opposition was upheld in part

*Decision of the Board of Appeal:* the appeal was dismissed

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation No 207/2009

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### Action brought on 10 September 2012 — Klingel v OHIM — Develey (JUNGBORN)

(Case T-401/12)

(2012/C 331/60)

*Language in which the application was lodged:* German

#### Parties

*Applicant:* Robert Klingel OHG (Pforzheim, Germany) (represented by: T. Zeiher, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Develey Holding GmbH & Co. Beteiligungs KG (Unterhaching, Germany)