

*Mark or sign cited in opposition:* Italian trade mark registration No 906507 of the figurative mark 'GRAZIA', for goods and services in classes 3, 9, 16, 18, 25 and 38; Community trade mark registration No 1714146 of the figurative mark 'GRAZIA', for goods and services in classes 3, 9, 16, 18 and 38; Italian trade mark registration No 1049965 of the word mark 'GRAZIA', for goods in class 16; Italian trade mark registration No 1050165 and International trade mark registrations No 276829, No 276833 and No 817006 for the above marks, for goods and services in classes 9, 16 or 38

*Decision of the Opposition Division:* Rejected the opposition in its entirety

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

*Pleas in law:* Infringement of Articles 8(1)(b) and 8(5) of Council Regulation No 207/2009.

**Action brought on 14 November 2012 — Sanofi v OHIM — GP Pharm (GEPRAL)**

(Case T-493/12)

(2013/C 26/113)

*Language in which the application was lodged:* English

#### Parties

*Applicant:* Sanofi (Paris, France) (represented by: C. Hertz-Eichenrode, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* GP Pharm, SA (Sant Quinti de Mediona, Spain)

#### Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 September 2012 in case R 201/2012-2; and

— Order OHIM to pay the costs.

#### 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 word mark 'GEPRAL', for goods in class 5 — International Registration No 1010832 designating the European Union

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

*Mark or sign cited in opposition:* International registration No 418607, with effect in Austria of the word mark 'DELPRAL', for goods in class 5

*Decision of the Opposition Division:* Allowed the opposition in its entirety

*Decision of the Board of Appeal:* Upheld the appeal and allowed the International registration to proceed in its entirety

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

**Action brought on 14 November 2012 — Biscuits Poulv v OHIM — Banketbakkerij Merba (Biscuits)**

(Case T-494/12)

(2013/C 26/114)

*Language in which the application was lodged:* French

#### Parties

*Applicant:* Biscuits Poulv (Montauban, France) (represented by: C. Chapoullié, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Banketbakkerij Merba BV (Oosterhout, Netherlands)

#### Form of order sought

— Annul or at least vary the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 August 2012 in Case R 914/2011-3;

— uphold the decision of the Invalidity Division which declared that Design No 001114292-0001 was valid;

— dismiss the application for a declaration of invalidity registered under reference ICD 000007120; and

— order Banketbakkerij Merba BV 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:* Design of a soft-centred biscuit, for biscuits in Class 01-01 — Community design No 001114292-0001

*Proprietor of the Community trade mark:* The applicant