

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

*Grounds for the application for a declaration of invalidity:* Figurative mark with the word element 'Sabores de Navarra La Sabiduría del Sabor' for goods and services in Classes 29, 30, 33, 39 and 42

*Decision of the Cancellation Division:* Application upheld in part

*Decision of the Board of Appeal:* Appeal brought by Frutas Solano, SA upheld in part and partial annulment of the decision of the Cancellation Division, dismissal of the applicant's action

*Pleas in law:*

— Breach of Article 8(1)(b) of Regulation No 207/2009, in conjunction with Article 53(1)(a) of that regulation;

— Breach of Article 15 of Regulation No 207/2009

**Action brought on 30 January 2013 — Goldsteig Käseereien Bayerwald v OHIM — Vieweg (goldstück)**

(Case T-47/13)

(2013/C 86/41)

*Language in which the application was lodged:* German

#### **Parties**

*Applicant:* Goldsteig Käseereien Bayerwald GmbH (Cham, Germany) (represented by: S. Biagosch, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Christin Vieweg (Sonneberg, Germany)

#### **Form of order sought**

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 November 2012 in Case R 2589/2011-1;

— Order OHIM to bear its own costs and to pay those incurred by the applicant.

#### **Pleas in law and main arguments**

*Applicant for a Community trade mark:* Christin Vieweg

*Community trade mark concerned:* the figurative mark including the word element 'goldstück' for goods in Classes 29 and 30 — Community trade mark application No 9 153 677

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

*Mark or sign cited in opposition:* the word mark 'GOLDSTEIG' for goods and services in Classes 29 and 43

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

*Decision of the Board of Appeal:* the Opposition Division's decision was annulled and the applicant's opposition was rejected

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

**Action brought on 30 January 2013 — Out of the Blue KG v OHIM — Mombauer (REFLEXX)**

(Case T-48/13)

(2013/C 86/42)

*Language of the case:* German

#### **Parties**

*Applicant:* Out of the blue KG (Lilienthal, Germany) (represented by: G. Hasselblatt and I. George, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Meinhard Mombauer (Cologne, 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 19 November 2012 in Case R 1656/2011-4;

— Order OHIM to bear its own costs and those of the applicant;

— Were Meinhard Mombauer to participate as intervener in the proceedings, order him to bear his own costs.

#### **Pleas in law and main arguments**

*Applicant for a Community trade mark:* Out of the blue KG

*Community trade mark concerned:* Word mark 'REFLEXX' for goods in Class 9 — Application for Community trade mark No 7 239 511