

Form of order sought

- Annul Commission Decision C(2012) 2542 final of 25 April 2012 (SA.33451; 2012/C; ex 2012/NN) pursuant to Article 264 TFEU, in so far as it concerns the applicants;
- order the Commission to pay the applicants' costs pursuant to Article 87(2) of the Rules of Procedure.

Pleas in law and main arguments

In support of the action, the applicants submit, in essence, that the Commission lacks competence. In the applicants' view, the alleged aid does not fall within the scope *ratione temporis* of Articles 107 TFEU and 108 TFEU. Under Annex V to Romania's Act of Accession, the Commission is competent to examine aid measures put into effect prior to the date of Romania's accession only if those measures are still applicable after that date. The applicants submit in that context, inter alia, that Hidroelectrica's liabilities vis-à-vis the alleged recipients were already established so clearly in the power supply contracts concluded prior to accession that a subsequent expansion of Hidroelectrica's supply obligation that might have resulted in additional advantages had to be ruled out.

Action brought on 1 March 2013 — Lardini v OHIM (Representation of a flower)**(Case T-131/13)**

(2013/C 141/41)

*Language of the case: Italian***Parties**

Applicant: Lardini Srl (Filottrano, Italy) (represented by: P. Roncaglia, G. Lazzeretti, F. Rossi and N. Parrotta, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- annul the decision of the First Board of Appeal of OHIM of 13 December 2012 in Case R 2578/2011-1; and
- order OHIM to pay the costs of the proceedings in their entirety, including the costs incurred during the appeal procedure in Case R 2578/2011-1

Pleas in law and main arguments

Community trade mark concerned: Position mark in the form of a flower for goods in Class 25

Decision of the Examiner: Application refused

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Infringement of Article 7(1)(b) of Regulation No 207/2009

Action brought on 2 March 2013 — Evonik Oil Additives v OHIM — BRB International (VISCOTECH)**(Case T-138/13)**

(2013/C 141/42)

*Language in which the application was lodged: German***Parties**

Applicant: Evonik Oil Additives GmbH (Darmstadt, Germany) (represented by: J. Albrecht, lawyer)

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

Other party to the proceedings before the Board of Appeal: BRB International BV (Ittervoort, Netherlands)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 December 2012 in Case R 907/2012-5;
- Order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: BRB International BV

Community trade mark concerned: the word mark 'VISCOTECH' for goods in Classes 1 and 4

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

Mark or sign cited in opposition: the national and international word marks 'VISCOPLEX' for goods in Classes 1 and 4

Decision of the Opposition Division: the opposition was upheld

Decision of the Board of Appeal: the appeal was upheld and the opposition was rejected

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