

**Action brought on 21 March 2013 — Benelli Q.J./OHIM — Demharter (MOTOBI B PESARO)**

(Case T-171/13)

(2013/C 147/50)

*Language in which the application was lodged: English***Parties***Applicant:* Benelli Q.J. Srl (Pesaro, Italy) (represented by: P. Lukácsi, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal:* Demharter GmbH (Dillingen, Germany)**Form of order sought**

The applicant claims that the Court should:

- Alter the defendant's decision and order the dismissal of the application for revocation filed by the cancellation applicant;
- Annul the defendant's decision and remit the case to OHIM for further examination and a new decision should the Court consider that it is inevitable to conduct another thorough analysis of the evidence of genuine use;
- Order the defendant to pay the applicant's costs.

**Pleas in law and main arguments***Registered Community trade mark in respect of which an application for revocation has been made:* The figurative mark 'MOTOBI B PESARO' for goods in classes 9, 12 and 25 — Community trade mark registration No 2 262 269*Proprietor of the Community trade mark:* The applicant*Party applying for revocation of the Community trade mark:* The other party to the proceedings before the Board of Appeal*Decision of the Cancellation Division:* Revoked the Community trade mark*Decision of the Board of Appeal:* Dismissed the appeal*Pleas in law:* Infringement of Article 51(1)(a) of Council Regulation No 207/2009.**Action brought on 25 March 2013 — Omega v OHIM — Omega Engineering (Ω OMEGA)**

(Case T-175/13)

(2013/C 147/51)

*Language in which the application was lodged: Spanish***Parties***Applicant:* Omega SA (Biel/Bienne, Switzerland) (represented by: P. González-Bueno Catalán de Ocón, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal:* Omega Engineering, Inc. (Stamford, United States)**Form of order sought**

The applicant claims that the General 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 10 January 2013 in Joined Cases R 2055/2011-1 and R 2186/2011-1 and grant protection for the trade mark concerned in respect of all of the goods requested;
- order OHIM and Omega Engineering, Inc. to pay the costs of the present proceedings.

**Pleas in law and main arguments***Applicant for a Community trade mark:* Omega SA*Community trade mark concerned:* International registration, designating the European Union, of the figurative mark with word element 'Ω OMEGA' for goods in Class 9 — international registration No 997 036 designating the European Union*Proprietor of the mark or sign cited in the opposition proceedings:* Omega Engineering, Inc.*Mark or sign cited in opposition:* National and Community word marks 'OMEGA' for goods and services in Classes 7, 9, 11, 16, 35, 38, 41 and 42*Decision of the Opposition Division:* Opposition upheld in part and protection applied for refused in part*Decision of the Board of Appeal:* Dismissal of the applicant's appeal and more extensive partial refusal of the protection applied for*Pleas in law:* Infringement of Article 8(1)(b) of Regulation No 207/2009