

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

*Mark or sign cited in opposition:* The Spanish trade marks No 291 655, No 451 559 and No 2 244 563

*Decision of the Opposition Division:* Rejected the opposition in part

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

*Pleas in law:* Infringement of Articles 8(1)(b) and 8(5) CTMR.

**Action brought on 28 October 2013 — Bimbo v OHIM — Cafe' do Brasil (Caffè KIMBO Espresso Napoletano)**

**(Case T-569/13)**

(2014/C 24/44)

*Language in which the application was lodged:* English

#### **Parties**

*Applicant:* Bimbo, SA (Barcelona, Spain) (represented by: N. Fernández Fernández-Pacheco, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Cafe' do Brasil SpA (Melito di Napoli, Italy)

#### **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 29 August 2013 given in Case R 1561/2012-4;

— Order the intervener to pay the costs of proceedings.

#### **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 figurative mark in red, gold, white and black containing the verbal elements 'Caffè KIMBO Espresso Napoletano' for a range of goods and services in Classes 30, 32 and 43 — Community trade mark application No 4 037 933

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

*Mark or sign cited in opposition:* Spanish trade mark No 291 655 for the word 'BIMBO' for goods in Class 30 and earlier well-known mark in Spain 'BIMBO' for goods in Class 30

*Decision of the Opposition Division:* Rejected the opposition in part

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

*Pleas in law:* Infringement of Article 8(1)(b) and 8(5) CTMR.

**Action brought on 30 October 2013 — Verus v OHIM — Joie International (MIRUS)**

**(Case T-576/13)**

(2014/C 24/45)

*Language in which the application was lodged:* German

#### **Parties**

*Applicant:* Verus Eood (Sofia, Bulgaria) (represented by: C. Röhl, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Joie International Co. Ltd (Hong Kong, China)

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

The applicant claims that the General Court should:

— vary the decision of the Fifth Board of Appeal of 23 August 2013 in Case R 715/2012-5 so that the opposition is entirely upheld and the application for Community trade mark 9599416 is rejected;

— order the defendant to pay the costs of the proceedings.

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

*Applicant for a Community trade mark:* Joie International Co. Ltd

*Community trade mark concerned:* word mark 'MIRUS' for goods in Class 12 — application for Community trade mark No 9 599 416

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

*Mark or sign cited in opposition:* German word mark 'MIRUS' for goods in Classes 12, 25 and 28