

**Judgment of the General Court of 15 September 2011 —
CEVA v Commission**

(Case T-285/09) ⁽¹⁾

(Specific programme for research and technological development in the field of research into living resources — Project Seapura — Grant agreement — Arbitration clause — Application for the reimbursement of sums paid in advance under a research financing contract — Reminder letters — Action for annulment — Inadmissibility)

(2011/C 311/73)

Language of the case: French

Parties

Applicant: Centre d'étude et de valorisation des algues SA (CEVA) (Pleubian, France) (represented by: J.-M. Peyrical, lawyer)

Defendant: European Commission (represented by: V. Joris, Agent, and E. Bouttier, lawyer)

Re:

Application for the annulment of the four reminder letters of the Commission dated 11 May 2009, by which it invited the applicant to reimburse the amount paid to it under a grant agreement concluded for a project to be carried out in the context of the specific programme for research and technological development, entitled 'Quality of Life and Management of Living Resources'.

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible;
2. Orders the Centre d'étude et de valorisation des algues SA (CEVA) to pay the costs.

⁽¹⁾ OJ C 220, 12.9.2009.

**Judgment of the General Court of 9 September 2011 —
Omnicare v OHIM — Astellas Pharma (OMNICARE
CLINICAL RESEARCH)**

(Case T-289/09) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community word mark OMNICARE CLINICAL RESEARCH — Earlier national figurative mark OMNICARE — Likelihood of confusion — Similarity of the signs — Similarity of the services — Genuine use of the earlier mark)

(2011/C 311/74)

Language of the case: English

Parties

Applicant: Omnicare, Inc. (Covington, Kentucky, United States) (represented by: M. Edenborough QC)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Crespo Carrillo, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Astellas Pharma GmbH (Munich, Germany) (represented by: C. Gutiérrez Martínez, H. Granado Carpenter and M. Polo Carreño, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 14 May 2009 (Case R 401/2008-4), concerning opposition proceedings between Yamanouchi Pharma GmbH and Omnicare, Inc.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Omnicare, Inc. to pay the costs.

⁽¹⁾ OJ C 244, 10.10.2009.

**Judgment of the General Court of 9 September 2011 —
Omnicare v OHIM — Astellas Pharma (OMNICARE)**

(Case T-290/09) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community word mark OMNICARE — Earlier national figurative mark OMNICARE — Likelihood of confusion — Similarity of the signs — Similarity of the services — Genuine use of the earlier mark)

(2011/C 311/75)

Language of the case: English

Parties

Applicant: Omnicare, Inc. (Covington, Kentucky, United States) (represented by: M. Edenborough QC)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Crespo Carrillo, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the General Court: Astellas Pharma GmbH (Munich, Germany) (represented by: C. Gutiérrez Martínez, H. Granado Carpenter and M. Polo Carreño, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 14 May 2009 (Case R 402/2008-4), concerning opposition proceedings between Yamanouchi Pharma GmbH and Omnicare, Inc.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Omnicare, Inc. to pay the costs.

(¹) OJ C 244, 10.10.2009.

Judgment of the General Court of 9 September 2011 — Ergo Versicherungsgruppe v OHIM — DeguDent (ERGO)

(Case T-382/09) (¹)

(Community trade mark — Opposition proceedings — Application for Community word mark ERGO — Prior Community and national word marks CERGO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Duty to rule on the entirety of the action — Scope of the examination to be carried out by the Board of Appeal — Article 64(1) of Regulation No 207/2009)

(2011/C 311/76)

Language of the case: German

Parties

Applicant: Ergo Versicherungsgruppe AG (Düsseldorf, Germany) (represented by: V. von Bomhard, A.W. Renck, T. Dolde and J. Pause, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: B. Schmidt, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: DeguDent GmbH (Hanau, Germany) (represented by: initially W. Blau, then W. Blau, D. Kaya and C. Kusulis, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 23 July 2009 (Case R 44/2008-4) concerning opposition proceedings between DeguDent GmbH and Ergo Versicherungsgruppe AG

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 23 July 2009 (Case R 44/2008-4) in so far as the Board of Appeal omitted to rule on the action brought before it as regards the goods in Class 5
2. Dismisses the remainder of the action;

3. Orders Ergo Versicherungsgruppe AG, DeguDent GmbH and OHIM to bear their own costs.

(¹) OJ C 297, 5.12.2009.

Judgment of the General Court of 15 September 2011 — centrotherm Clean Solutions v OHIM — Centrotherm Systemtechnik (CENTROTHERM)

(Case T-427/09) (¹)

(Community trade mark — Revocation proceedings — Community word mark CENTROTHERM — Genuine use of the mark — Article 51(1)(a) of Regulation (EC) No 207/2009)

(2011/C 311/77)

Language of the case: German

Parties

Applicant: centrotherm Clean Solutions GmbH & Co. KG (Blau-beuren, Germany) (represented by: O. Löffel, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider and R. Manea, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM: Centrotherm Systemtechnik GmbH (Brilon, Germany) (represented by: J. Albrecht and U. Vormbrock, lawyers)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 25 August 2009 (Case R 6/2008-4) relating to revocation proceedings between centrotherm Clean Solutions GmbH & Co. KG and Centrotherm Systemtechnik GmbH

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 25 August 2009 (Case R 6/2008-4) in so far as it annuls the decision of the Cancellation Division of 30 October 2007 in part;
2. Orders OHIM to bear its own costs and to pay those incurred by centrotherm Clean Solutions GmbH & Co. KG;
3. Orders Centrotherm Systemtechnik GmbH to bear its own costs.

(¹) OJ C 312, 19.12.2009.