

**Pleas in law and main arguments**

The pleas in law and main arguments are the same as those relied on in Case T-70/10 *Feralpi Holding Spa v Commission* and Case T-83/10 *Riva Fire Spa v Commission*.

In particular, the applicant argues

Lack of authority of the Commission to impose penalties for breach of Article 65 CS once that Treaty ceased to be in force and in any event to use Articles 7(1) and 23(2) of Regulation EC No 1/2003 <sup>(1)</sup> as a legal basis.

The infringement of the rights of the defence of the applicant in the preceding administrative procedure in so far as the Commission did not send a further statement of objections but confined itself to giving notice by letter of its intention to re-adopt the Decision. The Member States were not heard and did not participate in a final hearing and it was made impossible for the applicant to state its own position in view of the re-adoption of the Decision.

Infringement of Article 65(1) CS in so far as the facts described in the Decision do not constitute a single continuing agreement.

Infringement of the Guidelines for setting fines pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003, and infringement of the principles of equality and proportionality in the assessment of the conduct of the applicant and in setting the amount of the fine.

<sup>(1)</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).

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**Action brought on 23 February 2010 — Chestnut Medical Technologies v OHIM (PIPELINE)**

(Case T-87/10)

(2010/C 100/98)

*Language of the case: English*

**Parties**

*Applicant:* Chestnut Medical Technologies, Inc. (Menlo Park, United States) (represented by: R. Kunz-Hallstein, H. Kunz-Hallstein, lawyers)

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

**Form of order sought**

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 10 December 2009 in case R 968/2009-2; and

— Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Community trade mark concerned:* The word mark 'PIPELINE' for goods in class 10

*Decision of the examiner:* Refused the application for a Community trade mark

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

*Pleas in law:* Infringement of Articles 7(1)(c) of Council Regulation No 207/2009, as the Board of Appeal erred in its assessment that the Community trade mark concerned has a descriptive character; infringement of Articles 75 of Council Regulation No 207/2009 as the Board of Appeal, by ignoring arguments brought by the applicant, infringed upon the obligation to state the reasons on which the decision has been based.

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**Action brought on 24 February 2010 — Republic of Hungary v European Commission**

(Case T-89/10)

(2010/C 100/99)

*Language of the case: Hungarian*

**Parties**

*Applicant:* Republic of Hungary (represented by: J. Fazekas, M.Z. Fehér, K. Szíjjártó, agents)

*Defendant:* European Commission