Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 July 2010 in case R 1437/2009-4;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'HEART-CONTROL' for goods and services in classes 9, 10 and 44

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 Council Regulation No 207/2009, as the Board of Appeal misapplied the principle of non-discrimination to the facts in this case; in the alternative, infringement of Articles 7(1)(b) and 7(1)(c) of Council Regulation No 207/2009, as the Board of Appeal erred in its conclusion that the trade mark applied for does not possess sufficient inherent distinctiveness.

Action brought on 26 August 2010 — Milux v OHMI (VESICACONTROL)

(Case T-351/10)

(2010/C 288/100)

Language of the case: English

Parties

Applicant: Milux Holding SA (Luxembourg, Luxembourg) (represented by: J. Bojs, lawyer)

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

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 28 July 2010 in case R 1439/2009-4;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'VESICA-CONTROL' for goods and services in classes 9, 10 and 44

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 Council Regulation No 207/2009, as the Board of Appeal misapplied the principle of non-discrimination and equal treatment to the facts in this case; in the alternative, infringement of Articles 7(1)(b) and 7(1)(c) of Council Regulation No 207/2009, as the Board of Appeal erred in its conclusion that the trade mark applied for does not possess sufficient inherent distinctiveness.

Action brought on 26 August 2010 — Milux v OHMI (RECTALCONTROL)

(Case T-352/10)

(2010/C 288/101)

Language of the case: English

Parties

Applicant: Milux Holding SA (Luxembourg, Luxembourg) (represented by: J. Bojs, lawyer)

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

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 28 July 2010 in case R 1443/2009-4;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'RECTAL-CONTROL' for goods and services in classes 9, 10 and 44

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 Council Regulation No 207/2009, as the Board of Appeal misapplied the principle of non-discrimination and equal treatment to the facts in this case; in the alternative, infringement of Articles 7(1)(b) and 7(1)(c) of Council Regulation No 207/2009, as the Board of Appeal erred in its conclusion that the trade mark applied for does not possess sufficient inherent distinctiveness.

Action brought on 31 August 2010 — Lito Maieftiko Ginaikologiko kai Khirourgiko Kentro v Commission

(Case T-353/10)

(2010/C 288/102)

Language of the case: Greek

Parties

Applicant: Lito Maieftiko Ginaikologiko kai Khirourgiko Kentro A.E. (Athens, Greece) (represented by: E. Tzannini, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— uphold the present action;

— annul the contested debit note;

— take account of the applicant's submissions if it holds that the amounts as accepted by the applicant in its memorandum of 5 November 2009 are to be refunded;

— annul the contested measure also in so far as it relates to third instalment which has not been paid;

— set any amounts that are to be refunded against the amounts never paid by way of the third instalment, which has remained outstanding for five years;

— hold that the present action constitutes an event interrupting the limitation period for the claim for payment of the third instalment;

— order the Commission to pay the costs.

Pleas in law and main arguments

By the present action, the applicant seeks annulment of the Commission decision which is contained in debit note No 3241007362 of 22 July 2010 and relates to the applicant's participation in DICOEMS research programme No 507760 and to implementation of the results of financial audit No 09-BA74-028.

The applicant puts forward the following grounds in support of its pleas:

— infringement of the general principle of law that an unfavourable measure must incorporate a statement of reasons in order for the legality of the reasoning to be reviewed, since the contested debit note does not state any reasons;

— error in the assessment of the facts, since the defendant did not take account of the evidence and in particular the timesheets which the applicant submitted as an attachment to its memorandum of 5 November 2009;

— error of law and defective reasoning, since the defendant did not take account of the applicant's actual submissions and rejected them in a wrongful manner and without stating reasons;

— infringement of the principle of good faith and of legitimate expectations, since the defendant wrongfully failed to pay the applicant the final instalment of the programme and nullified all its research work, five years after the programme's closure.

Action brought on 23 August 2010 — Nike International/OHMI — Deichmann (VICTORY RED)

(Case T-356/10)

(2010/C 288/103)

Language in which the application was lodged: English

Parties

Applicant: Nike International Ltd (Oregon, U.S.A.) (represented by: M. De Justo Bailey, lawyer)