

**Form of order sought**

— Annul Council Implementing Regulation (EU) No 856/2010 of 27 September 2010 <sup>(1)</sup>, insofar as it affects the applicants; and

— Order the Council to pay the costs of the proceedings.

**Pleas in law and main arguments**

By means of its application, the applicants seek, pursuant to Article 263 TFUE, the annulment of Council Regulation (EU) 856/2010, which terminated a partial interim review initiated pursuant to the request of the applicants for a change in the form of anti-dumping measure by including a related trader in their undertaking in force.

In support of their submissions, the applicants put forward the following pleas in law:

The applicants submit that the Union institutions used a legally flawed basis to reject their request and terminate the partial interim review without a change of measure.

More specifically, the applicants claim that the Union institutions breached Article 143(1)(a) of Commission Regulation (EEC) No 2454/93 of 2 July 1993 laying down provisions for the implementation of Council Regulation (EEC) No 2913/92 establishing the Community Customs Code (OJ 1993 L 253, p. 1) and made a manifest errors of assessment in finding that their related trader was related to another company.

Furthermore, the applicants submit that in the conduct of their investigation and findings in Council Regulation (EU) 856/2010 the institutions breached Article 5(4) TEU requiring the respect by the Union institutions of the fundamental EU law principle of proportionality, and of Article 41 of the Charter of Fundamental Rights embodying the principle of good administration.

<sup>(1)</sup> Council Implementing Regulation (EU) No 856/2010 of 27 September 2010 terminating the partial interim review of Regulation (EC) No 661/2008 imposing a definitive anti-dumping duty on imports of ammonium nitrate originating in Russia (OJ 2010 L 254, p. 5)

**Action brought on 27 December 2010 — Deutsche Telekom v OHIM — TeliaSonera Denmark (Shade of magenta)**

(Case T-583/10)

(2011/C 55/56)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Deutsche Telekom AG (Bonn, Germany) (represented by: T. Dolde, V. von Bomhard and B. Goebel, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Telia-Sonera Denmark A/S (Copenhagen, Denmark)

**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 22 October 2010 in case R 463/2009-4;

— Order the defendant or the other party to the proceedings before the Board of Appeal, should it become an intervening party in this case, to pay the costs of the proceedings.

**Pleas in law and main arguments**

*Registered Community trade mark in respect of which a declaration of invalidity has been sought:* The colour mark consisting in a shade of magenta for services in classes 38 and 42 — Community trade mark registration No 212787

*Proprietor of the Community trade mark:* The applicant

*Applicant for the declaration of invalidity of the Community trade mark:* The other party to the proceedings before the Board of Appeal

*Grounds for the application for a declaration of invalidity:* The party requesting the declaration of invalidity grounded its request on absolute grounds for refusal pursuant to Articles 4 and 7(3) of Council Regulation (EC) No 207/2009

*Decision of the Cancellation Division:* Closed the case following the withdrawal of the request for declaration of invalidity

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

*Pleas in law:* Infringement of Article 59 of Council Regulation No 207/2009, as the Board of Appeal: (i) failed to properly assess the admissibility of the appeal, and (ii) violated Articles 85(3) and 83 of Council Regulation No 207/2009, by denying the legitimate interest to continue the proceedings.

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**Action brought on 27 December 2010 — Yilmaz v OHIM — Tequila Cuervo (TEQUILA MATADOR HECHO EN MEXICO)**

(Case T-584/10)

(2011/C 55/57)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Mustafa Yilmaz (Stuttgart, Germany) (represented by: F. Kuschmirek, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Tequila Cuervo, SA de CV (Tlaquepaque, Mexico)

**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 13 October 2010 in case R 1162/2009-2; and
- Order the defendant to pay the costs of the 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 'TEQUILA MATADOR HECHO EN MEXICO', for goods in class es 32 and 33 — Community trade mark application No 3975117

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

*Mark or sign cited in opposition:* German trade mark registration No 30205053.1 of the word mark 'MATADOR' for goods in class 32; International trade mark registration No 792051 of the word mark 'MATADOR' for goods in class 32

*Decision of the Opposition Division:* Upheld the opposition for all the contested goods

*Decision of the Board of Appeal:* Annulled the contested decision

*Pleas in law:* Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal wrongly assessed that there was no likelihood of confusion, as the trade marks in question are confusingly similar with regard to the goods for which the applied for trade mark seeks protection.

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**Action brought on 29 December 2010 — Castiglioni v Commission**

(Case T-591/10)

(2011/C 55/58)

*Language of the case: Italian*

**Parties**

*Applicant:* Castiglioni Srl (Busto Arsizio, Italy) (represented by: G. Turri, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul the contested measures, which are better described in the present application, by declaring them null and void and, therefore, order the European Commission to compensate for damage in a particular form, which may include a declaration that any contract which may have been entered into between the Commission and the successful tenderers was invalid, null and void or ineffective;
- **in the alternative**, annul the contested measures, which are better described in the present application, by declaring them null and void and, therefore, order the European Commission to compensate for the damage, including what is known as 'curricular damage', suffered by Castiglioni Srl in a commensurate amount to be quantified in the course of the proceedings, together with interest and monetary indexation to the date of actual payment;
- **in any event**, order the European Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

The applicant relies on three grounds in support of its application: