

**Judgment of the General Court of 1 February 2013 —
Ferrari v OHIM (PERLE')**

(Case T-104/11) ⁽¹⁾

(Community trade mark — International registration designating the European Community — Figurative mark PERLE' — Absolute grounds for refusal — Descriptive character — Lack of distinctive character — Lack of distinctive character acquired through use — Article 7(1)(b) and (c) and Article 7(3) of Regulation (EC) No 207/2009)

(2013/C 79/23)

Language of the case: Italian

Parties

Applicant: Ferrari F.lli Lunelli SpA (Trento, Italy) (represented by: P. Perani and G. Ghisletti, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented: initially by G. Mannucci, and subsequently L. Rampini and F. Mattina, acting as Agents)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 8 December 2010 (Case R 1249/2010-2) concerning the international registration, designating the European Community, of the figurative mark PERLE'.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Ferrari F.lli Lunelli SpA to pay the costs.

⁽¹⁾ OJ C 113, 9.4.2011.

**Judgment of the General Court of 4 February 2013 —
Marszałkowski v OHIM — Mar-Ko Fleischwaren
(WALICHNOWY MARKO)**

(Case T-159/11) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark WALICHNOWY MARKO — Earlier Community word mark MAR-KO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2013/C 79/24)

Language of the case: Polish

Parties

Applicant: Marek Marszałkowski (Sokolniki, Poland) (represented by: C. Sadkowski, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: K. Zajfert and D. Walicka, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Mar-Ko Fleischwaren GmbH & Co. KG (Blankenheim, Germany) (represented by: O. Ruhl, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 11 January 2011 (Case R 760/2010-4) relating to opposition proceedings between Mar-Ko Fleischwaren GmbH & Co. KG and Mr Marek Marszałkowski.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Mr Marek Marszałkowski to pay the costs.

⁽¹⁾ OJ C 145, 14.5.2011.

**Judgment of the General Court of 31 January 2013 —
Spain v Commission**

(Case T-235/11) ⁽¹⁾

(Cohesion Fund — Reduction of the financial assistance initially granted by the Fund to five projects concerning the implementation of certain lines of the high-speed railway network in Spain — Time-limit for the adoption of a decision — Article H(2) of Annex II to Regulation (EC) No 1164/94 — Article 18(3) of Regulation (EC) No 1386/2002 — Additional deliveries — Additional works or services — Concept of 'unforeseen circumstance' — Article 20(2)(e) and (f) of Directive 93/38/EEC)

(2013/C 79/25)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: M. Muñoz Pérez and N. Díaz Abad initially, then by N. Díaz Abad and A. Rubio González, abogados del Estado)

Defendant: European Commission (represented by: E. Adserá Ribera and D. Recchia, Agents)

Re:

Primarily, application for annulment of Commission Decision C(2011) 1023 final of 18 February 2011 reducing assistance from the Cohesion Fund for the project phases entitled 'Supply and assembly of track materials for the Madrid-Zaragoza-Barcelona-French border High-Speed Line. Madrid-Lleida section' (CCI 1999.ES.16.C.PT.001), 'Madrid-Barcelona High-Speed Rail line. Lleida-Martorell section (Platform,