

**Action brought on 18 February 2011 — Rovi Pharmaceuticals v OHIM — Laboratorios Farmaceuticos Rovi (ROVI Pharmaceuticals)**

(Case T-97/11)

(2011/C 120/35)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Rovi Pharmaceuticals GmbH (Schlüchtern, Germany) (represented by: M. Berghofer, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Laboratorios Farmaceuticos Rovi, SA (Madrid, Spain)

**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 7 December 2010 in case R 500/2010-2;
- Reject the opposition No B 1368580 in its entirety with costs;
- Order the defendant to register Community trade mark application No 6475107.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* The word mark 'ROVI Pharmaceuticals', for goods and services in classes 3, 5 and 44 — Community trade mark application No 6475107

*Proprietor of the mark or sign cited in the opposition proceedings:* The other party to the proceedings before the Board of Appeal

*Mark or sign cited in opposition:* Community trade mark registration No 24810 of the figurative mark 'ROVI', for goods in classes 3 and 5; Community trade mark registration No 4953915 of the figurative mark 'ROVICM Rovi Contract Manufacturing', for goods and services in classes 5, 42 and 44; Spanish trade mark registration No 2509464 of the word mark 'ROVIFARMA', for goods and services in classes 5, 39 and 44; Spanish trade mark registration No 1324942 of the word mark 'ROVI', for goods in class 3; Spanish trade mark registration No 283403 of the word mark 'ROVI', for goods in classes 1 and 5; Spanish trade mark registration No 137853 of the figurative mark 'ROVI', for goods in class 3

*Decision of the Opposition Division:* Upheld the opposition

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

*Pleas in law:* Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal: (i) wrongly found that there was likelihood of confusion as it has incorrectly appreciated the individual factors relevant to the global assessment, and (ii) omitted to perform the global assessment of the concerned marks.

**Appeal brought on 17 February 2011 by AG against the judgment of the Civil Service Tribunal delivered on 16 December 2010 in Case F-25/10 AG v Parliament**

(Case T-98/11 P)

(2011/C 120/36)

*Language of the case: French*

**Parties**

*Appellant:* AG (Brussels, Belgium) (represented by S. Rodrigues, A. Blot and C. Bernard-Glanz, lawyers)

*Other party to the proceedings:* European Parliament

**Form of order sought by the appellant**

- Declare the present appeal admissible;
- Annul the order made by the Civil Service Tribunal on 16 December 2010 in Case F-25/10;
- Grant the forms of order sought as regards annulment and indemnity submitted by the appellant before the Civil Service Tribunal;
- Order the Parliament to pay the costs of both instances.

**Pleas in law and main arguments**

In support of the appeal, the appellant raises a single plea in law, alleging distortion of the evidence adduced before the Judge at first instance, breach of the principle of legal certainty and infringement of the right to an effective remedy, in that:

- there is no document in the file which enables the CST to take the view that the appellant lacked diligence in not having her post forwarded during her end-of-year holidays, during which period the post official came to her home to deliver to her the registered letter from the Parliament with its response to her claim;