

- the contested measures appear to be devoid of purpose since 11 April 2011, Mr L. Gbagbo having been captured on that date.

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**Action brought on 23 May 2011 — Pangyrus v OHIM —
RSVP Design (COLOURBLIND)**

(Case T-257/11)

(2011/C 211/62)

Language in which the application was lodged: English

Parties

Applicant: Pangyrus Ltd (York, United Kingdom) (represented by: S. Clubb, Solicitor)

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

Other party to the proceedings before the Board of Appeal: RSVP Design Ltd (Renfrewshire, United Kingdom)

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 23 March 2011 in case R 751/2009-4;
- Restore the decision of the Cancellation Division of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 12 May 2009; and
- Award the costs in favour of the applicant.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The word mark 'COLOURBLIND', for goods and services in classes 9, 16, 28, 35 and 41 — Community trade mark registration No 3337979

Proprietor of the Community trade mark: The other party to the proceedings before the Board of Appeal

Applicant for the declaration of invalidity of the Community trade mark: The applicant

Grounds for the application for a declaration of invalidity: The party requesting the declaration of invalidity based its request on two grounds, namely Article 53(1)(c) in conjunction with Article 8(4) of Council Regulation (EC) No 207/2009, by invoking an earlier unregistered right protected under the law of passing-off in the United Kingdom, as well as on the existence of bad faith in accordance with Article 52(1)(b) of Council Regulation (EC) No 207/2009.

Decision of the Cancellation Division: Declared the Community trade mark registration invalid in its entirety

Decision of the Board of Appeal: Annulled the decision of the Cancellation Division and rejected the request for declaration of invalidity

Pleas in law: The applicant considers that the Board of Appeal erred in law in finding that: (i) the Community trade mark proprietor did not act in bad faith when it applied for the Community trade mark; and (ii) the applicant had failed to prove that it had used an earlier sign in the course of trade before the date in which the contested Community trade mark was applied for.

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Action brought on 19 May 2011 — Spain v Commission

(Case T-260/11)

(2011/C 211/63)

Language of the case: Spanish

Parties

Applicant: Spain (represented by: N. Díaz Abad, Agent)

Defendant: European Commission

Form of order sought

- annul Commission Regulation (EU) No 165/2011 of 22 February 2011 providing for deductions from certain mackerel quotas allocated to Spain in 2011 and subsequent years on account of overfishing in 2010, and
- order the Commission to pay the costs.

Pleas in law and main arguments

The Annex to the contested regulation contains the penalty imposed on Spain for overfishing of mackerel in 2010 in zones VIIIc, IX and X in EU waters of CECAF 34.1.1, the quota being reduced by 39 242 tonnes, with reductions of 4 500 tonnes in 2011, 5 500 in 2012, 9 748 in 2013, 9 747 in 2014 and 9 747 in 2015 and 'where appropriate ... in subsequent years'.

In support of the action, the applicant relies on six pleas in law.

1. Infringement of Article 105(6) of Council Regulation (EC) No 1224/2009 of 20 November 2009 establishing a Community control system for ensuring compliance with the rules of the common fisheries policy, amending Regulations (EC) No 847/96, (EC) No 2371/2002, (EC) No 811/2004, (EC) No 768/2005, (EC) No 2115/2005, (EC) No 2166/2005, (EC) No 388/2006, (EC) No 509/2007, (EC) No 676/2007, (EC) No 1098/2007, (EC) No 1300/2008, (EC) No 1342/2008 and repealing Regulations (EEC) No 2847/93, (EC) No 1627/94 and (EC) No 1966/2006 ('Regulation No 1224/2009'), in so far as the contested regulation was adopted before the Commission adopted the implementing regulation provided for in Article 105(6).