

4. **Fourth ground:** The defendant calculated the sums to be recovered incorrectly.

The applicant maintains that the defendant is unable to calculate precisely the supposed advantage of the recipients of the aid and does not take into account the effect which the charging of a lower ticket price had or could have had on demand.

(<sup>1</sup>) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1).

**Action brought on 1 August 2011 — Maharishi Foundation v OHIM (MÉDITATION TRANSCENDANTALE)**

(Case T-426/11)

(2011/C 282/84)

*Language of the case: English*

**Parties**

*Applicant:* Maharishi Foundation Ltd (St. Helier, Jersey) (represented by: A. Meijboom, lawyer)

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

**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 6 April 2011 in case R 1294/2010-2;

— Order the defendant to pay the costs

**Pleas in law and main arguments**

*Community trade mark concerned:* The word mark 'MÉDITATION TRANSCENDANTALE' for goods and services in classes 16, 35, 41, 44 and 45 — Community trade mark application No 8246704

*Decision of the Examiner:* Rejected the application for a Community trade mark, for part of the goods and services

*Decision of the Board of Appeal:* Allowed the appeal and remitted the case to the Examination Division for further prosecution

*Pleas in law:* The applicant puts forward four pleas in law: (i) infringement of Articles 75 and 7(1)(a) of Council Regulation

No 207/2009, as the Board of Appeal did not explicitly decide on Article 7(1)(a) of CTMR, but did, nevertheless, consider that the mark 'MÉDITATION TRANSCENDANTALE' is generic; (ii) infringement of Article 7(1)(b) of Council Regulation No 207/2009, as the Board of Appeal incorrectly decided that the mark is devoid of any distinctive character; (iii) infringement of Article 7(1)(c) of Council Regulation No 207/2009, as the Board of Appeal incorrectly concluded that the mark consists exclusively of indications, which may serve, in trade, to designate characteristics of the goods or services, for which applicant filed the mark; and (iv) infringement of Article 7(3) of Council Regulation No 207/2009, as the Board of Appeal incorrectly decided that the mark has not become distinctive in relation to the goods or services, for which registration is requested in consequence of the use, which has been made of it.

**Action brought on 4 August 2011 — Banco Bilbao Vizcaya Argentaria v Commission**

(Case T-429/11)

(2011/C 282/85)

*Language of the case: Spanish*

**Parties**

*Applicant:* Banco Bilbao Vizcaya Argentaria, SA (Bilbao, Spain) (represented by: J. Ruiz Calzado, M. Núñez-Müller and J. Domínguez Pérez, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

— annul Article 1(1) of the decision;

— in the alternative, annul Article 1(4) and (5) of the decision;

— in the further alternative, annul Article 4 of the decision, or amend its scope as appropriate; and

— order the Commission to pay all the costs of the proceedings.

**Pleas in law and main arguments**

This action has been brought against Article 1(1) of the decision of the European Commission of 12 January 2011 in Case No C 45/2007 (ex NN 51/2007, ex CP 9/2007) on the tax amortisation of financial goodwill for foreign shareholding acquisitions implemented by Spain ('the decision').