

**Form of order sought**

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 July 2011 in case R 1289/2010-1; and
- Order the defendant and the other party to the proceedings before the Board of Appeal to bear their own costs and those incurred by 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 'STEAM GLIDE', for goods in class 9 — Community trade mark registration No 5167382

*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 other party to the proceedings before the Board of Appeal filed a request for a declaration of invalidity on the basis of Article 52(1)(a) in conjunction with the absolute grounds of refusal of Article 7(1)(a), (b) and (c) of Council Regulation (EC) No 207/2009

*Decision of the Cancellation Division:* Rejected the request for a declaration of invalidity

*Decision of the Board of Appeal:* Annulled the contested decision and declared the Community trade mark registration invalid

*Pleas in law:* Infringement of Article 7(1)(c) of Council Regulation No 207/2009, as the Board of Appeal erred in relation to the meaning and syntax of the mark and its component parts, as well as its aptness or otherwise as an immediate and direct descriptive term for the goods in question. Further the Board of Appeal failed to consider the general interest that underlies Article 7(1)(c) CTMR. Infringement of Article 7(1)(b) of Council Regulation No 207/2009, as the Board of Appeal failed to consider the essential function of the mark, failed to consider the perspective of the average consumer, failed to consider Article 7(1)(b) separately from Article 7(1)(c), failed to consider the general interest that underlies Article 7(1)(b) CTMR and failed to analyse the mark as a whole.

**Action brought on 19 October 2011 — MIP Metro v OHIM — Real Seguros (real,- QUALITY)**

(Case T-548/11)

(2012/C 6/34)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany) (represented by: J. Plate and R. Kaase, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Real Seguros, SA (Porto, Portugal)

**Form of order sought**

- Stay the proceedings until the final decision of the Portuguese Trademark Office on the request of revocation which has been filed by the applicant against the earlier Portuguese trademark registrations No 249791, No 249793 and No 254390; In case that the request for the stay of proceedings is not granted, to continue the proceeding and to;
- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 August 2011 in case R 114/2011-4; and
- Order the defendant to pay the costs, including the costs of the appeal proceedings.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* The international trade mark registration No W 983683 of the figurative mark 'real,- QUALITY', in red, blue and beige, for services in class 36

*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:* Portuguese trade mark registration No 249791 of the word mark 'REAL', for services in class 36; Portuguese trade mark registration No 249793 of the word mark 'REAL SEGUROS', for services in class 36; Portuguese figurative mark registration No 254390 comprising the word element 'REAL', for services in class 36; various unregistered rights claimed to be protected in all Member States or in Portugal

*Decision of the Opposition Division:* Upheld the opposition in its entirety

*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 wrongly assumed that there would be a likelihood of confusion between the applied mark and the opposed marks.

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**Action brought on 19 October 2011 — MIP Metro v OHIM — Real Seguros (real,- BIO)**

(Case T-549/11)

(2012/C 6/35)

*Language in which the application was lodged:* English

**Parties**

*Applicant:* MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany) (represented by: J. Plate and R. Kaase, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Real Seguros, SA (Porto, Portugal)

**Form of order sought**

- Stay the proceedings until the final decision of the Portuguese Trademark Office on the request of revocation which has been filed by the applicant against the earlier Portuguese trademark registrations No 249791, No 249793 and No 254390; In case that the request for the stay of proceedings is not granted, to continue the proceeding and to;
- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 August 2011 in case R 115/2011-4; and
- Order the defendant to pay the costs, including the costs of the appeal proceedings.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* The international trade mark registration No W 983684 of the figurative mark 'real,- BIO', in green, white and brown, for services in class 36

*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:* Portuguese trade mark registration No 249791 of the word mark 'REAL', for services in class 36; Portuguese trade mark registration No 249793 of the word mark 'REAL SEGUROS', for services in class 36; Portuguese figurative mark registration No 254390 comprising the word element 'REAL', for services in class 36; various unregistered rights claimed to be protected in all Member States or in Portugal

*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 wrongly assumed that there would be a likelihood of confusion between the applied mark and the opposed marks.

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**Action brought on 24 October 2011 — Lito Maieftiko Ginaikologiko kai Khirourgiko Kentro v Commission**

(Case T-552/11)

(2012/C 6/36)

*Language of the case:* Greek

**Parties**

*Applicant:* Lito Maieftiko Ginaikologiko kai Khirourgiko Kentro A.E. (Athens, Greece) (represented by: E. Tzannini, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

- uphold the present action;
- annul the contested debit note;
- take account of the applicant's submissions if it holds that the amounts as accepted by the applicant in its memorandum of 17 June 2011 are to be refunded;
- annul the contested measure also in so far as it relates to the third instalment which has not been paid;
- set off any amounts that are to be refunded against the amounts never paid by way of the third instalment, which has remained outstanding for five years;