

**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 27 September 2011 in Case R 2508/2010-2;
- order the defendant to pay the costs.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* Thomas Müller

*Community trade mark concerned:* Figurative mark containing the word element 'Sunless', for goods in Classes 6, 19, 22 and 24.

*Proprietor of the mark or sign cited in the opposition proceedings:* Loncar, SL

*Mark or sign cited in opposition:* Word marks 'SUNLESS' and 'LONCAR-SUNLESS' for goods in Classes 22, 23 and 24 and ropes, string, nets, tents, awnings, tarpaulins, sails, sacks and bags (not included in other classes); padding and stuffing materials (except of rubber or plastics); raw fibrous textile materials.

*Decision of the Opposition Division:* Opposition allowed.

*Decision of the Board of Appeal:* Appeal dismissed.

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation No 207/2009 as there is no likelihood of confusion between the marks at issue.

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**Action brought on 5 January 2012 — Godrej Industries and V V F v Council**

(Case T-6/12)

(2012/C 49/59)

*Language of the case:* English

**Parties**

*Applicants:* Godrej Industries Ltd (Mumbai, India), V V F Ltd (Mumbai) (represented by: B. Servais, lawyer)

*Defendant:* Council of the European Union

**Form of order sought**

- Annul Council implementing Regulation (EU) No 1138/2011 of 8 November 2011 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain fatty alcohols and their blends originating in India, Indonesia and Malaysia (OJ L 293, 11.11.2011, p. 1), in so far as it concerns the applicants;
- Order the Council to pay the costs of the proceedings.

**Pleas in law and main arguments**

In support of the action, the applicants rely on three pleas in law.

## 1. First plea in law, alleging

- that by failing to grant the adjustment for currency conversion which the applicants claimed for sales made in Euro between January and June 2010, in view of the fact that there had been a sustained appreciation of the Indian Rupee against the Euro during an important part of the investigation period, the Council violated Article 2(10) (and, in particular, paragraph (j) thereof) of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community<sup>(1)</sup>, as interpreted in accordance with Articles 2.4 and 2.4.1 of the World Trade Organization's Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994;

## 2. Second plea in law, alleging

- that by not excluding the sales of the product concerned, to the Union industry, for the purpose of the calculation of the injury margin and for the purpose of the injury and causality analysis, the Council violated Article 3 of Council Regulation (EC) No 1225/2009 of 30 November 2009 and, in particular, paragraphs 2, 6 and 7 thereof, as well as Article 9(4) thereof;

## 3. Third plea in law, alleging

- that by failing to exclude sales to the Union industry for the purpose of the calculation of the dumping margin, the Council violated Articles 1(1) and 2(10) of Council Regulation (EC) No 1225/2009 of 30 November 2009, interpreted in accordance with the relevant provisions of the World Trade Organization's Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994, in particular Article 9(1) thereof, as well as the principle of proportionality and reasonableness.

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<sup>(1)</sup> OJ L 343, 22.12.2009, p. 51

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**Order of the President of the General Court of 15 December 2011 — Maxima Grupè v OHIM — Bodegas Maximo (MAXIMA PREMIUM)**

(Case T-523/11)<sup>(1)</sup>

(2012/C 49/60)

*Language of the case:* English

The President of the General Court has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 355, 3.12.2011.