

## GENERAL COURT

**Action brought on 1 March 2012 — Verus v OHIM — Performance Industries Manufacturing (VORTEX)**

(Case T-104/12)

(2012/C 157/11)

*Language in which the application was lodged: German*

**Parties**

*Applicant:* Verus Eood (Sofia, Bulgaria) (represented by: S. Vykydal, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Performance Industries Manufacturing, Inc. (Odessa, Florida, United States)

**Form of order sought**

The applicant claims that the Court should:

— annul the Decision of the Fourth Board of Appeal of 21 December 2011 in Case R 512/2011-4, VORTEX/VORTEX, and refer the case back to the Board of Appeal;

— order the defendant to pay the costs of the proceedings before the Court and the Board of Appeal.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* Performance Industries Manufacturing Inc.

*Community trade mark concerned:* word mark 'VORTEX' for goods in Classes 7 and 12 (Registration No 5 375 324).

*Proprietor of the mark or sign cited in the opposition proceedings:* the applicant.

*Mark or sign cited in opposition:* Community word mark 'VORTEX', registered for services in Classes 35 and 39 (mark No 5 514 104).

*Decision of the Opposition Division:* rejection of the opposition.

*Decision of the Board of Appeal:* dismissal of the appeal.

*Pleas in law:* infringement of Article 8(2)(a) and (b) of Regulation No 207/2009, as there is a likelihood of confusion between the marks at issue.

**Action brought on 7 March 2012 — Buzil-Werk Wagner v OHIM — Roca Sanitario (Roca)**

(Case T-115/12)

(2012/C 157/12)

*Language in which the application was lodged: German*

**Parties**

*Applicant:* Buzil-Werk Wagner GmbH & Co. KG (Memmingen, Germany) (represented by: D. Waldhauser, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Roca Sanitario, SA (Barcelona, Spain)

**Form of order sought**

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market of 9 January 2012 (Case No R 1907/2010-4) and reject the opposition brought by Roca Sanitario, SA, Av. Diagonal, 513, E-08029 Barcelona (Spain).

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* the applicant

*Community trade mark concerned:* the word mark 'Roca' for goods in Class 3 (application No 6 800 726)

*Proprietor of the mark or sign cited in the opposition proceedings:* Roca Sanitario, SA

*Mark or sign cited in opposition:* the Spanish trade marks 'Roca' (trade mark Nos 1 020 043, 2 543 451, 424 875 and 915 635) for certain goods in Classes 19 and 21 and the international trade mark 'Roca' (trade mark No 905 212) for certain goods in Classes 11, 19, 20 and 21

*Decision of the Opposition Division:* partial rejection of the opposition

*Decision of the Board of Appeal:* annulment of the Opposition Division's decision and rejection of the Community trade mark application in respect of all the goods applied for

*Pleas in law:* There is no likelihood of confusion between the marks at issue.