

**Pleas in law and main arguments**

Registered Community trade mark in respect of which a declaration of invalidity has been sought: the figurative mark including the word element 'EXAKT' for goods and services in Classes 7, 9 and 37 — Community trade mark No 3 996 592

Proprietor of the Community trade mark: the applicant

Applicant for the declaration of invalidity of the Community trade mark: Exakt Precision Tools Ltd

Grounds for the application for a declaration of invalidity: the figurative mark including the word element 'EXAKT' for goods in Classes 7, 8 and 9

Decision of the Cancellation Division: the application was upheld

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Article 8(1)(b) and Article 53(1)(a) of Regulation No 207/2009

**Action brought on 29 January 2013 — Roy v Council and Commission**

(Case T-41/13)

(2013/C 86/39)

Language of the case: French

**Parties**

Applicant: René Roy (Juillac-le-Coq, France) (represented by: C.-E. Gudin, lawyer)

Defendants: Council of the European Union and European Commission

**Form of order sought**

- Compensation in full for the loss suffered by reason of the fines, namely the sum of EUR 87 400;
- Compensation in full for his non-pecuniary loss, namely the sum of EUR 100 000;
- Order the Council and the Commission to pay all the costs.

**Pleas in law and main arguments**

In support of the action, the applicant relies on pleas in law which are in essence identical or similar to those raised in Cases T-195/11 *Cahier and Others v Council and Commission* <sup>(1)</sup> and T-458/11 *Riche v Council and Commission*. <sup>(2)</sup>

<sup>(1)</sup> OJ 2011 C 173, p. 14.

<sup>(2)</sup> OJ 2011 C 298, p. 28.

**Action brought on 28 January 2013 — Sabores de Navarra v OHIM — Frutas Solano (KIT, EL SABOR DE NAVARRA)**

(Case T-46/13)

(2013/C 86/40)

Language in which the application was lodged: Spanish

**Parties**

Applicant: Sabores de Navarra, AIE (Pamplona, Spain) (represented by: J. Calderón Chavero and O. González Fernández, lawyers)

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

Other party to the proceedings before the Board of Appeal: Frutas Solano, SA (Calahorra, Spain)

**Form of order sought**

The applicant claims that the Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 7 November 2012 in Cases R 2542/2011-2 and R 2550/2011-2;
- consequently, apply the decision of 11 October 2011 adopted by the Cancellation Division of OHIM in annulment proceedings No 4633 C; that decision declared invalid in part Community Trade Mark No 5042346 'KIT, EL SABOR DE NAVARRA' (word mark) in respect of Class 29 for 'Preserved, dried and cooked fruits and vegetables; jellies, jams, compotes; all originating in Navarra' and in respect of Class 30 for 'Pastry and confectionery, honey, treacle; sauces (condiments); spices';
- uphold the applicant's submissions requiring the relevant Cancellation Division of OHIM to declare invalid once again the goods set out in the previous point;
- order OHIM to pay the costs associated with the present action.

**Pleas in law and main arguments**

Registered Community trade mark in respect of which a declaration of invalidity has been sought: Word mark 'KIT, EL SABOR DE NAVARRA' for goods in Classes 29, 30 and 33 — Registered Community Trade Mark No 5 042 346

Proprietor of the Community trade mark: Frutas Solano, SA

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

*Grounds for the application for a declaration of invalidity:* Figurative mark with the word element 'Sabores de Navarra La Sabiduría del Sabor' for goods and services in Classes 29, 30, 33, 39 and 42

*Decision of the Cancellation Division:* Application upheld in part

*Decision of the Board of Appeal:* Appeal brought by Frutas Solano, SA upheld in part and partial annulment of the decision of the Cancellation Division, dismissal of the applicant's action

*Pleas in law:*

— Breach of Article 8(1)(b) of Regulation No 207/2009, in conjunction with Article 53(1)(a) of that regulation;

— Breach of Article 15 of Regulation No 207/2009

**Action brought on 30 January 2013 — Goldsteig Käseereien Bayerwald v OHIM — Vieweg (goldstück)**

(Case T-47/13)

(2013/C 86/41)

*Language in which the application was lodged:* German

#### Parties

*Applicant:* Goldsteig Käseereien Bayerwald GmbH (Cham, Germany) (represented by: S. Biagosch, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Christin Vieweg (Sonneberg, Germany)

#### Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 November 2012 in Case R 2589/2011-1;

— Order OHIM to bear its own costs and to pay those incurred by the applicant.

#### Pleas in law and main arguments

*Applicant for a Community trade mark:* Christin Vieweg

*Community trade mark concerned:* the figurative mark including the word element 'goldstück' for goods in Classes 29 and 30 — Community trade mark application No 9 153 677

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

*Mark or sign cited in opposition:* the word mark 'GOLDSTEIG' for goods and services in Classes 29 and 43

*Decision of the Opposition Division:* the opposition was upheld

*Decision of the Board of Appeal:* the Opposition Division's decision was annulled and the applicant's opposition was rejected

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation No 207/2009

**Action brought on 30 January 2013 — Out of the Blue KG v OHIM — Mombauer (REFLEXX)**

(Case T-48/13)

(2013/C 86/42)

*Language of the case:* German

#### Parties

*Applicant:* Out of the blue KG (Lilienthal, Germany) (represented by: G. Hasselblatt and I. George, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Meinhard Mombauer (Cologne, Germany)

#### 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 19 November 2012 in Case R 1656/2011-4;

— Order OHIM to bear its own costs and those of the applicant;

— Were Meinhard Mombauer to participate as intervener in the proceedings, order him to bear his own costs.

#### Pleas in law and main arguments

*Applicant for a Community trade mark:* Out of the blue KG

*Community trade mark concerned:* Word mark 'REFLEXX' for goods in Class 9 — Application for Community trade mark No 7 239 511