

Other party to the proceedings before the Board of Appeal of OHIM:
Munindra Holding BV (Lelystad, Netherlands)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 23 November 2012 (Case R 2296/2011-4), relating to opposition proceedings between Munindra Holding BV and Three-N-Products Private Ltd.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Three-N-Products Private Ltd to pay the costs.*

⁽¹⁾ OJ C 101, 6.4.2013.

Order of the General Court of 7 November 2013 — 1-2-3.TV v OHIM — ZDF and Televersal Film- und Fernsehproduktion (1-2-3.TV)

(Case T-440/08) ⁽¹⁾

**(Community trade mark — Opposition — Withdrawal of
opposition — No need to adjudicate)**

(2013/C 377/37)

Language of the case: German

Parties

Applicant: 1-2-3.TV GmbH (Unterföhring, Germany) (represented: initially by V. von Bomhard, A. Renck, T. Dolde and E. Nicolás Gómez, subsequently by K. Kleinschmidt and U. Grübler, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, acting as Agent)

Other parties to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Zweites Deutsches Fernsehen (ZDF) (Mainz, Germany); and Televersal Film- und Fernsehproduktion GmbH (Hamburg, Germany) (represented: initially by B. Krause and F. Cordt, subsequently by B. Krause, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 30 June 2008 (Case R 1076/2007-1), relating to opposition proceedings between 1-2-3.TV GmbH and Zweites Deutsches Fernsehen (ZDF) and Televersal Film- und Fernsehproduktion GmbH.

Operative part of the order

1. *There is no further need to adjudicate on the action.*

2. *The applicant and the interveners shall bear their own costs and each pay half of the costs of the defendant.*

⁽¹⁾ OJ C 327, 20.12.2008.

Action brought on 13 September 2013 — Seatech International and Others v Commission

(Case T-500/13)

(2013/C 377/38)

Language of the case: French

Parties

Applicants: Seatech International, Inc. (Cartagena, Colombia); Tuna Atlantic, Ltda (Cartagena); and Comextun, Ltda (Cartagena) (represented by: F. Foucault, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul Commission Implementing Regulation (EU) No 672/2013 of 15 July 2013 amending Regulation (EU) No 468/2010 establishing the EU list of vessels engaged in illegal, unreported and unregulated fishing, in so far as it designates the Marta Lucia R as a ship that engages in IUU fishing.

Pleas in law and main arguments

In support of the action, the applicants claim that the Marta Lucia R was removed from the list of ships considered to be engaging in illegal, unreported and unregulated fishing, held by the Inter-American Tropical Tuna Commission, and that it should therefore be similarly removed from the European Union list of vessels engaged in IUU fishing.

Action brought on 7 October 2013 — Microsoft v OHIM — Softkinetic Software (KINECT)

(Case T-536/13)

(2013/C 377/39)

Language in which the application was lodged: English

Parties

Applicant: Microsoft Corp. (Redmond, United States) (represented by: A. Meijboom, lawyer)

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

Other party to the proceedings before the Board of Appeal: Soft-kinetic Software SA (Brussels, Belgium)

Defendant: European Commission

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 25 July 2013 given in Case R 2373/2011-1;
- Order the defendant to pay the costs of the proceedings; and
- Order the other party to the proceedings before the Board of Appeal, should it intervene, to pay the costs incurred in the proceedings before the OHIM.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'KINECT' for goods in Class 9 — Community trade mark application No 9 058 141

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: The word mark 'SOFTKINETIC' for goods and services in Classes 9, 28, 38, 41 and 42 — International registration No 1 025 034 designating the European Union; the word mark 'SOFTKINETIC' for goods and services in classes 9, 28, 38, 41 and 42 — Benelux trade mark registration No 850 946

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Upheld the appeal and annulled the contested decision

Pleas in law: Infringement of Articles 8(5) and 8(1)(b) CTMR.

Action brought on 15 October 2013 — Hellenic Republic v Commission

(Case T-550/13)

(2013/C 377/40)

Language of the case: Greek

Parties

Applicant: Hellenic Republic (represented by: I. Khalkias, X. Basakou and A. Vasilopoulou)

Form of order sought

The applicant claims that the General Court should:

- annul the Commission's final and definitive decision of 13 August 2013 on excluding from European Union financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF), under the European Agricultural Guarantee Fund (EAGF) and under the European Agricultural Fund for Rural Development (EAFRD) (notified under document C(2013) 5225 and published at OJ 2013 L 219), as regards the part relating to the Hellenic Republic;
- order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on the following grounds for annulment:

By the first ground for annulment, relating to the correction in the aid scheme for the processing of peaches and pears, the Hellenic Republic contends that the imposition of corrections in 2013 after more than four years' inaction on the part of the Commission regarding deficiencies in the control system, which relate to the financial years 2006 and 2007 and had already been identified in 2008, infringes the general principle of legal certainty and the general principles requiring action to be taken within a reasonable time and the Commission to act timeously, on account of the unjustifiable and excessive length of the procedure which is prejudicial to the Hellenic Republic in the present financial situation, and it constitutes an absolute financial surprise.

By the second ground for annulment, relating to the correction in the aid scheme for the processing of peaches and pears, the Hellenic Republic submits that the Commission, erring as to the facts and stating totally inadequate reasons, reached the conclusion that two key controls were not carried out and proposed a correction amounting to a flat rate of 10 %, and that the rate could not in any event exceed the rate of 5 % which is imposed in cases where deficiencies in key controls are found.

By the third ground for annulment, relating to the correction in the POSEI — Small Aegean Islands sector, the Hellenic Republic submits that the Commission decision lacks a specific statement of reasons so as to justify the correction imposed.