

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

*Other party to the proceedings before the Board of Appeal:* WE Brand Sàrl (Luxembourg, Luxembourg)

### **Details of the proceedings before OHIM**

*Applicant:* Applicant

*Trade mark at issue:* Figurative mark including the word element 'W E' — Application for registration No 10 763 795

*Procedure before OHIM:* Opposition proceedings

*Contested decision:* Decision of the Second Board of Appeal of OHIM of 4 August 2014 in Case R 2305/2013-2

### **Form of order sought**

The applicant claims that the Court should:

- annul the contested decision and uphold the application for a Community trade mark registration lodged by the applicant;
- order OHIM and the other party to the proceedings to pay the costs.

### **Plea in law**

- Infringement of Article 8(1) (b) of Regulation No 207/2009.

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## **Action brought on 13 October 2014 — Belgium v Commission**

**(Case T-721/14)**

(2014/C 431/66)

*Language of the case: Dutch*

### **Parties**

*Applicant:* Kingdom of Belgium (represented by: L. Van den Broeck and M. Jacobs, acting as Agents, and P. Vlaemminck and B. Van Vooren, lawyers)

*Defendant:* European Commission

### **Form of order sought**

The applicant claims that the Court should:

- annul Commission Recommendation 2014/478/EU of 14 July 2014 on principles for the protection of consumers and players of online gambling services and for the prevention of minors from gambling online;
- order the Commission to pay the costs.

### **Pleas in law and main arguments**

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging infringement of the principle of conferral under Article 5 TEU by not referring to the substantive legal basis in the Treaties that confer on the Commission the competence to adopt the contested measure.
2. Second plea in law, alleging infringement of the principle of conferral, given that the Treaties do not confer on the Commission the competence to adopt an instrument with harmonising effect in the games of chance sector.

3. Third plea in law, alleging infringement of the principle of cooperation in good faith under Article 4(3) TEU and the principle of institutional balance under Article 13(2) TEU due to the Commission's disregard of the Conclusions of the Council of 10 December 2010 'Framework for gambling and betting in the EU member states' (Document 16884/10).
4. Fourth plea in law, alleging infringement of the principle of cooperation in good faith under Article 4(3) TEU in respect of the Member States.
5. Fifth plea in law, alleging infringement of Articles 13(2) TEU and 288 and 288 TFEU, given that the contested instrument constitutes *de facto* a hidden directive. The applicant also claims an infringement of Article 52 of the Charter of Fundamental Rights of the European Union because the Commission did not implement in accordance with law a limitation on the freedom of expression and information as laid down in Article 11 of the Charter of Fundamental Rights.

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**Action brought on 14 October 2014 — Aalberts Industries v Commission and Court of Justice of the European Union**

(Case T-725/14)

(2014/C 431/67)

*Language of the case: Dutch*

**Parties**

*Applicant:* Aalberts Industries NV (Utrecht, Netherlands) (represented by: R. Wesseling and M. Tuurenhout, lawyers)

*Defendants:* European Commission and Court of Justice of the European Union

**Form of order sought**

The applicant claims that the Court should:

- order the European Union represented by the Court of Justice or the European Commission to compensate the damage suffered by Aalberts as a result of the infringement of its rights, consisting of EUR 1 041 863 of material damage and EUR 5 040 000 of non-material damage or an amount to be fixed by the General Court on an equitable basis, to be increased by compensatory interest from 13 January 2010 until delivery of the present judgment, at the rate fixed by the ECB for main refinancing operations, applicable during the period in question, increased by two percentage points or at a rate fixed by the General Court on an equitable basis;
- order the European Union represented by the Court of Justice or the European Commission to pay the costs.

**Pleas in law and main arguments**

The applicant submits that the General Court infringed its right to have its case dealt with within a reasonable time in the action in Case T-385/06 *Aalberts Industries N.V. and Others v Commission*, which the applicant brought against Commission Decision C(2006) 4180 of 20 September 2006 relating to a proceeding under Article 81 EC and Article 53 of the EEA Agreement (Case COMP/F-1/38.121 — Fittings).

The applicant states that the procedure lasted 4 years and 3 months whereas it should not have taken the General Court more than three years to deal with its action in view of all the circumstances of the case. The applicant asserts that the General Court acted contrary to the second paragraph of Article 47 of the Charter of Fundamental Rights of the European Union, which requires the European Union Courts to adjudicate on cases before them within a reasonable time, and Article 6(1) of the ECHR, which confers on individuals the right have their case dealt with within a reasonable time.

The applicant has suffered actual and certain damage as a result of the fact that the General Court did not dispose of the action within a period of 3 years. That damage consists of the costs that the applicant had to incur for the refinancing of a bank guarantee once the action had taken longer than 3 years to be dealt with.