

**Action brought on 19 July 2010 — Constellation Brands/OHMI (COOK'S)****(Case T-314/10)**

(2010/C 260/31)

*Language of the case: English***Parties***Applicant:* Constellation Brands, Inc. (New York, USA) (represented by: B. Brandreth, Barrister)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)**Form of order sought**

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 April 2010 in case R 1048/2009-1;
- Remit the case to the Office for Harmonisation in the Internal Market (Trade Marks and Designs) and order that *restitutio in integrum* be granted in respect of community trade mark application No 942128;
- Order the defendant to pay the costs of the proceedings.

**Pleas in law and main arguments***Community trade mark concerned:* The word mark 'COOK'S'*Decision of the Trade Marks and Register Department:* Rejected the request for *restitutio in integrum* and confirmed the cancellation of the Community trade mark registration No 942128*Decision of the Board of Appeal:* Dismissed the appeal*Pleas in law:* Infringement of Article 81 of Council Regulation No 207/2009, as the Board of Appeal erred in the application of this article and in its assessment of the facts in holding that the applicant's representatives had failed to exercise due care in the circumstances.**Action brought on 23 July 2010 — Consorzio del vino nobile di Montepulciano and Others v Commission****(Case T-318/10)**

(2010/C 260/32)

*Language of the case: Italian***Parties***Applicants:* Consorzio del vino nobile di Montepulciano (Montepulciano, Italy), Contucci di Alamanno Contucci & C. Società Agricola Sas (Montepulciano, Italy), Villa S. Anna Società Semplice Agricola di Fabroni Anna S. E M. Società Semplice (Montepulciano, Italy), Il Conventino Società Agricola per Azioni (Montepulciano, Italy) (represented by: D. Dodaro, S. Cianciullo, G. Brini and G. Nazzi, lawyers)*Defendant:* European Commission**Form of order sought**

- Declare that the contested regulation is invalid or inapplicable, or in any event annul the amendment made by it to Annex XV to Commission Regulation (EC) No 607/2009, in so far as it incorrectly identifies the technical error to be corrected as merely the inclusion of the 'Montepulciano' grape variety denomination in Part B of that annex, applying the system of derogations under Article 62(3) and (4) of Regulation 607/09 to the protected designation of origin 'Vino Nobile di Montepulciano', without having regard to the specific nature of that designation.
- In the alternative, declare that the contested regulation is invalid or inapplicable, or in any event annul the amendment made by it to Annex XV, in so far as, in order to move the 'Montepulciano' grape variety denomination to part A of that annex for the purposes of Article 62(3) of Regulation (EC) 607/2009, which relates to grape names which consist of or contain a protected designation of origin, the contested regulation identified the protected designation of origin as the single word 'Montepulciano', deleting the traditional term 'Vino Nobile di', which has formed an essential part of the designation since it was recognised.

- Order the European Commission to pay the costs of the present proceedings.