OFFICE FOR HARMONIZATION IN THE INTERNAL MARKET
(TRADE MARKS AND DESIGNS)

Cancellation Division

CANCELLATION No 8303 C (REVOCATION)

Swiss Sense B.V., Jagersveld 15, 5405 BW, Uden, the Netherlands (applicant), represented by **AKD Prinsen van Wijmen**, Bijster 1, 4817 HX, Breda, the Netherlands (professional representative)

against

Rectitel S.A., Avenue des Olympiades 2, 1140 Brussels, Belgium (CTM proprietor), represented by **Djamila Mahlous, (Rectitel S.A.)**, Olympiadenlaan 2, Brussels, 1140 Belgium (employee representative).

On 30/05/2014, the Cancellation Division takes the following

DECISION

1. The rights of the proprietor of Community trade mark No 1 350 834 "SENSUS" are partially revoked as of 08/08/2013 in respect of the following goods:

Class 10: *Furniture, beds, mattresses, cushions, orthopaedic articles for medical use, excluding orthopedic corsets, medical braces and stockings.*

Class 17: *Soft cores, filling materials, top layers, quilted, stitched layers all of plastic for improving the comfort of furniture, cushions (semi-finished products); plastics in extruded form for use in manufacture; packing, stopping and insulating materials; padding and stuffing materials for cushions and furniture not included in other classes; cellular plastic material for further processing and filling of furniture, and cushions; alveolar plastic; plastic materials, (semi-manufactures) for stuffing, filling and covering sofas, divans, seats, armchairs, cushions, head rests, back and arms rests.*

Class 20: *Furniture; goods made of plastic not included in other classes; cushions, beds, bases of beds, seats, armchairs, benches, bunks, sofas, divans, head rests, back and arm rests; alveolar plastic; all products relating to sleeping comfort, namely head rests (furniture), bedding (except bed linen), bases of beds.*

2. The application is rejected, and the Community trade mark No 1 350 834 remains registered, for the following goods.

Class 17: *Soft cores, filling materials, top layers, quilted, stitched layers all of plastic for improving the comfort of mattresses, pillows, beds and bed coverings (semi-finished products); padding and stuffing materials for mattresses, not included in other classes; cellular plastic material for further processing and filling of mattresses and beds; plastic materials, (semi-manufactures) for stuffing, filling and covering mattresses, pillows, bolsters, bases of beds, beds, bunks.*

Class 20: *Mattresses, pillows, bolsters; all products relating to sleeping comfort, namely mattresses, pillows, bolsters.*

3. Each party shall bear their own costs.

REASONS

The applicant filed a request for revocation of Community trade mark No 1 350 834 "SENSUS" (word), (the contested CTM). The request is directed against all the goods covered by the contested CTM, namely:

Class 10: *Furniture, beds, mattresses, cushions, orthopaedic articles for medical use, excluding orthopedic corsets, medical braces and stockings.*

Class 17: *Soft cores, filling materials, top layers, quilted, stitched layers all of plastic for improving the comfort of furniture, cushions and mattresses, pillows, beds and bed coverings (semi-finished products); plastics in extruded form for use in manufacture; packing, stopping and insulating materials; padding and stuffing materials for mattresses, cushions and furniture not included in other classes; cellular plastic material for further processing and filling of furniture, mattresses and cushions, beds; alveolar plastic; plastic materials, (semi-manufactures) for stuffing, filling and covering mattresses, pillows, bolsters, bases of beds, beds, sofas, divans, seats, armchairs, bunks, cushions, head rests, back and arms rests.*

Class 20: *Furniture; goods made of plastic not included in other classes; mattresses, cushions, beds, bases of beds, pillows, bolsters, seats, armchairs, benches, bunks, sofas, divans, head rests, back and arm rests; alveolar plastic; all products relating to sleeping comfort, namely head rests (furniture), bedding (except bed linen), bases of beds, mattresses, pillows, bolsters.*

The applicant invoked Article 51(1)(a) CTMR.

SUMMARY OF THE PARTIES' ARGUMENTS

The CTM proprietor submitted evidence as proof of use, consisting of various exhibits and explaining its use of the contested CTM on various products. The CTM proprietor claims that the evidence must be considered globally and all together, and not by examining single exhibits separately, as the applicant did. The CTM proprietor contends that the contested CTM would be generic or descriptive. This is shown already by the fact that the contested CTM was registered by the Office as a trademark, and its distinctiveness was therefore recognized.

The CTM proprietor also points out that in national proceedings (to which the applicant is referring), the proprietor submitted only a part of the evidence, and therefore the conclusions made in the national proceedings are not applicable. The proprietor refers to the exhibit submitted by the applicant (from the proprietor's website) and points out that this exhibit does not contain all the proprietor's trademarks, and therefore the applicant's conclusion drawn on this exhibit is erroneous.

The applicant argues that the evidence is not sufficient to show genuine use of the contested CTM, mainly because it does not relate to all the goods for which the contested CTM is registered and because the contested CTM is used by the proprietor as a generic term for a type of stuffing material that is used as an ingredient in an end product and not as an indication of origin of an end product. It also argues that the evidence, in particular the brochures and invoices, do not constitute solid and objective

evidence of use, as the indications in the invoices (such as *Premium MP1000 Sensus Soft*) do not determine the nature of said products, whether these products are in fact sold under the CTM and whether the proprietor holds a CTM registration for the particular goods, i.e. it is not possible to identify the sold products. It also claims that the contested CTM is only a name of a filling material used in an end product, for example as mentioned in the evidence "*Sensus is one of the layers of a particular mattress*" in Exhibit 3, page 29.

Furthermore, regarding the invoices, the applicant claims that the majority of the invoices do not relate to the sales of end products, but to the products sold under different brands (such as BEKA, ROYAL REST and FESTEN) containing foam like-ingredient "Sensus". Regarding the territorial use the applicant claims that the contested CTM is used merely in France and Benelux and therefore does not refer to the whole European Union. The applicant also submits an extract showing different brands of the proprietor, which does not show the CTM as one of the brands of the proprietor.

Finally, the applicant makes a reference to a Dutch national decision of the opposition division of the Benelux Office for Intellectual Property, dated 01/03/2013, case No 2 006 163, where the Benelux Office deemed that the contested CTM was not genuinely used within the European Union.

On 07/05/2014, the Office informed the parties that no further observations could be filed and that a decision would be taken on the basis of the evidence before it.

GROUNDS FOR THE DECISION

On the substance

Pursuant to Article 51(1)(a) CTMR, the rights of the proprietor of the Community trade mark shall be declared to be revoked on application to the Office or on the basis of a counterclaim in infringement proceedings if, within a continuous period of five years, the trade mark has not been put to genuine use in the Community in connection with the goods or services in respect of which it is registered, and there are no proper reasons for non-use.

In revocation proceedings based on the grounds of non-use, the burden of proof lies with the CTM proprietor as the applicant cannot be expected to prove a negative fact, namely that the mark has not been used during a continuous period of five years. Therefore, it is the CTM proprietor that must prove genuine use within the European Union or submit proper reasons for non-use.

Pursuant to Article 51(2) CTMR, where the grounds for revocation of rights exist in respect of only some of the goods or services for which the Community trade mark is registered, the rights of the proprietor shall be declared to be revoked in respect of those goods or services only.

According to Rule 22(3) and (4) CTMIR, which are applicable *mutatis mutandis* to revocation proceedings by virtue of Rule 40(5) CTMIR, '[t]he indications and evidence for the furnishing of proof of use shall consist of indications concerning the place, time, extent and nature of use of the [contested CTM] for the goods and services in respect of which it is registered ... The evidence shall be filed in accordance with Rules 79 and 79a and shall, in principle, be confined to the submission of supporting documents and

items such as packages, labels, price lists, catalogues, invoices, photographs, newspaper advertisements, and statements in writing as referred to in Article 78(1)(f) of the Regulation'.

The rationale for the requirement that a mark must be the subject of genuine use in order to be protected under EU law is that the OHIM's register cannot be compared with a strategic and static depository granting an inactive proprietor a legal monopoly for an unlimited period. On the contrary, and in accordance with Recital 10 CTMR, 'that register must faithfully reflect what companies actually use on the market to distinguish their goods and services in economic life' (judgment of 15/09/2011, T-427/09, 'Centrotherm', paragraph 24).

As regards the interpretation of the concept of genuine use, it is settled case-law that there is 'genuine use' of a trade mark where it is used in accordance with its essential function, which is to guarantee the identity of the origin of the goods or services for which it is registered, in order to create or preserve an outlet for those goods or services; genuine use does not include token use for the sole purpose of preserving the rights conferred by that mark. Moreover, the condition of genuine use of the mark requires that that mark, as protected in the relevant territory, be used publicly and outwardly. In order to assess whether a particular trade mark has been put to genuine use in a particular case, an overall assessment of the documents in the file must be carried out, taking account of all the relevant factors in the case. In such an assessment, regard must be had to all the facts and circumstances relevant to establishing whether the commercial exploitation of the mark is real, particularly whether such use is viewed as warranted in the economic sector concerned to maintain or create a share in the market for the goods or services protected by the mark, the nature of those goods or services, the characteristics of the market and the scale and frequency of use of the mark (judgment of 27/09/2007, T-418/03, 'LA MER', paragraphs 53 to 55, and case-law cited therein).

The case at hand

In the present case, the CTM No 1 350 834 was registered on 21/02/2001. The revocation request was filed on 08/08/2013. Therefore, the CTM had been registered for more than five years at the date of the filing of the request.

On 27/08/2013, the Cancellation Division duly notified the CTM proprietor of the application for revocation and gave it a time limit of three months to submit evidence of use of the CTM for all the goods for which it is registered.

On 24/09/2013 and on 20/11/2013, the CTM proprietor submitted the following evidence:

- Exhibit 1: BEKA brochure of April 2007; showing the contested CTM in the same catalogue and in product pictures (or on the same pages) with mattresses, pillows and filling materials of which these goods are consisting; the catalogue describes the goods for example "Thanks to the unique pressure relieving characteristics of Sensus® [...] the mattress can feel [...]" and "Ergonomic pillow in visco-elastic material: the asymmetrically integrated neckroll in Sensus® [...]", showing (among with other brochures in other exhibits) goods such as mattresses and pillows;

- Exhibit 2: Invoice dated 10 August 2007 regarding Exhibit 1, invoices (together with other invoices in other exhibits) refer to goods such as "Super Pocket Sensus 2006",

"Premium MP1000 Sensus Soft", "PL Bilbao Sensus", "Oasis Sensus", "Air Natural Sensus";

- Exhibit 3: LATTOFLEX brochure of 1 December 2009;
- Exhibit 4: Invoice of 30 December 2009 regarding Exhibit 3;
- Exhibit 5: UBICA brochure "Ubica Voordeelsets" of December 2010;
- Exhibit 6: Invoices dated 31 December 2010 regarding Exhibit 5;
- Exhibit 7: UBICA brochure "Ubica Collectie" of January 2011;
- Exhibit 8: Invoice dated 31 December 2010 regarding Exhibit 7;
- Exhibit 9: Insert for packaging of SENSUS pillow;
- Exhibit 10: Invoices between 30 March 2006 and 19 May 2011 regarding sales of SENSUS pillows in Sweden;
- Exhibit 11: Picture of SENSUS pillow;
- Exhibit 12: Invoices (dated 2009) from Rectitel NV (Hulshout, Belgium) to customers in Belgium;
- Exhibit 13: 2010 invoices from Rectitel NV (Hulshout, Belgium) to customers in the Netherlands and Denmark;
- Exhibit 14: 2011 invoices from Rectitel NV (Hulshout, Belgium) to customers in the Belgium and Luxembourg;
- Exhibit 15: 2011 invoices from Rectitel AB (Sweden) to a customer in the Untied Kingdom;
- Exhibit 16: Hulshout (Belgium) sticky labels;
- Exhibit 17: Declaration from supplier of woven labels;
- Exhibit 18: Additional labels for Rectitel NV (Geraardsbergen, Belgium);
- Exhibit 20: Microgel Sensus and Ergo Sensus pillows (BEKA);
- Exhibit 21: Labels for UBICA brand: Topper Sensus Festen top mattress, Topper Sensus Vague top mattress, Modia Sensus mattress; packed Ergo Sensus pillow;
- Exhibit 23: 2011 invoices from Rectitel NV (Hulshout, Belgium) to customers in the Netherlands;
- Exhibit 24: Invoices from Rectitel NV (Geraardsbergen, Belgium) to customers in France;
- Exhibit 25: Pictures of a Reference Super Pocket Sensus mattress in a specialized bedding store in Belgium;

• Exhibit 26: The sheet showing the company structure of the CTM proprietor and how the aforementioned companies in different countries are related and part of the CTM proprietor;

• Exhibit 27: BEKA brochure of January 2011;

• Exhibit 28: Invoices dated December 2010 and February 2011, regarding Exhibit 27;

• Exhibit 29: Additional invoices (2011 – 2012) from Rectitel NV (Hulshout, Belgium) to customers in Belgium;

• Exhibit 30: Additional invoices (2011 – 2012) from Rectitel NV (Hulshout, Belgium) to customers in the Netherlands;

• Exhibit 31: Additional invoices (2011 – 2012) from Rectitel NV (Hulshout, Belgium) to customers in Luxembourg;

• Exhibit 32: Additional invoices (2012) from Rectitel NV (Geraardsbergen, Belgium) to customers in Luxembourg and Belgium.

Assessment of the evidence

Time of use

The relevant period for proving genuine use is the five years prior to the request for revocation on 08/08/2013, namely from 08/08/2008 to 07/08/2013 inclusive.

The proprietor has submitted a substantial amount of invoices, which indicate the years 2010 – 2012. Furthermore, the product brochures are dated to years 2009 and 2010

Therefore, overall, the Cancellation Division is satisfied that the contested CTM has been used, at least to some extent, during the relevant time period. As a principle, the time of use need not be shown over the whole of the relevant five-year period and it is sufficient when at least a part of that period is covered (see, by analogy, judgment of 08/11/2007, T-169/06, 'Charlott France Entre Luxe et Tradition', paragraph 41). Since this is sufficient to rule out an uninterrupted period of non-use of five years, the other relevant factors must be examined.

Place of use

As the Court indicated in 'Leno Merken', it is impossible to determine a priori, and in the abstract, what territorial scope should be applied in order to determine whether the use of the mark is genuine or not (judgment of 19/12/2012, C-149/11, 'Leno Merken', paragraph 55). All of the relevant facts and circumstances must be taken into account, including the characteristics of the market concerned, the nature of the goods or services protected by the trade mark and the territorial extent and the scale of use, as well as its frequency and regularity (paragraph 58).

The evidence shows that the place of use has been different member countries of the European Union. This can be inferred from, for example, the invoices, which are submitted to customers in Belgium, the Netherlands, Luxembourg, Sweden and France. Furthermore, the product catalogues are issued for the public in Benelux,

which is indicated for example by the web address www.beka.be, which can be seen in the catalogues.

Consequently, as the use has been clearly shown in different member countries of the European Union, it is concluded that the evidence of use filed by the proprietor contains sufficient indications concerning the place of use.

Extent of use

This requirement implies that the onus is on the proprietor to furnish sufficient indications concerning the commercial volume obtained using the mark, to be evaluated in the light of the length of the period during which the mark was used and the frequency of use (judgment of 08/07/2004, 'VITAFRUIT', paragraph 41; and of 08/0/2004, T-334/01, 'HIPOVITON', paragraph 35).

The Court of Justice has held that 'use of the mark need not always be quantitatively significant for it to be deemed genuine, as that depends on the characteristics of the goods or service concerned on the corresponding market' (see judgment of 11/03/2003, C-40/01, 'Ansul'). However, as far as this indication is concerned the General Court has stated that 'account must be taken, in particular, of the commercial volume of the overall use, as well as of the length of the period during which the mark was used and the frequency of use' (see judgment of 08/07/2004, T-334/01, 'HIPOVITON'). The assessment of genuine use 'entails a degree of interdependence between the factors taken into account. Thus, the fact that commercial volume achieved under the mark was not high may be offset by the fact that use of the mark was extensive or very regular, and vice versa' (judgment of 08/07/2004, T-203/02, 'Vitafruit').

The evidence showing the economic significance of the use of the contested CTM is indicated clearly with the invoices. The proprietor has submitted substantial amount of invoices, referring to the sales of different products sold under the mark "Sensus", the contested CTM, for example "Super Pocket Sensus 2006", "Premium MP1000 Sensus Soft", "PL Bilbao Sensus", "Oasis Sensus", "Air Natural Sensus". The Cancellation Division notices that the sums or euros are not disclosed in most of the invoices, and therefore, only indirect conclusions of the economic significance of these sales can be done. However, there are roughly 100 invoices, which are issued to different customers in, inter alia, France, Belgium and Luxembourg and the quantities of the delivered goods indicate deliveries of hundreds of pieces of the referred goods (invoices indicating "Quantité" and amounts of 1 – 2 items in most invoices, but also from 7 to 9 items in some invoices). Therefore, it is considered that the invoices clearly show substantial sales of different goods, sold under the mark "Sensus".

The Cancellation Division considers that the CTM proprietor has shown to a sufficient extent that it has delivered substantial amounts of its goods in connection with the contested CTM to different countries within several years. Consequently, the extent of use of the earlier mark is sufficiently established.

Nature of use

The expression "nature of use" in the context of Rule 22(3) CTMIR comprises the need for evidence of use of the mark as a trade mark, of the use of the mark as registered, or of a variation thereof according to Article 15(1), second subparagraph, point (a)CTMR and of its use for the goods and services for which it is registered.

Regarding a use as a trade mark, it must be noted that the function of a trade mark is to operate as a link between the goods and the person responsible for their marketing. Therefore, the proof of use must establish a clear link between the use of the mark and the relevant goods. As clearly indicated in Rule 22(4) CTMIR, it is not necessary for the mark to be affixed to the goods themselves. A representation of the mark on packaging, catalogues, advertising material or invoices relating to the goods in question constitutes direct evidence that the mark has been put to genuine use.

The contested CTM is clearly linked to some of the relevant goods, such as mattresses, mattress fillings, and pillows and their fillings. This can be seen for example in Exhibit 27, where pillows are shown, or in Exhibit 5, where mattresses are shown. The mark "SENSUS" is presented next to these goods, as "MICRO GEL SENSUS®" (pillows in Exhibit 27), or mentioned with the product description ("The comfortable top mattress [...] or Sensus® core is interlaced with hollow moist [...]" (mattresses in Exhibit 5). Therefore, it is considered that the contested CTM has been used in relation to the goods in question to sufficiently show the nature of use.

It must be also noticed, that the CTM proprietor has consistently used the contested CTM accompanied with "registered" symbol, ®, and therefore, it is likely that the public has perceived the contested CTM as a trade mark indicating the origin of the goods, and not merely as a descriptive element indicating the quality or kind of the goods in question.

The applicant has claimed that the contested CTM has been used in generic way merely to indicate the quality of the goods in question and not as a trademark. However, for the reasons explained above, these claims are rejected.

The Cancellation Division also notices that the contested CTM is used together with other trade marks, such as "UBICA" or "BEKA". However, there is no legal precept in the Community trade mark system which obliges the proprietor to provide evidence of the earlier mark alone when genuine use is required. Two or more trade marks may be used together in an autonomous way, with or without the company name, without altering the distinctive character of the earlier registered trade mark. The Court has confirmed that the condition of genuine use of a registered trade may be satisfied both where it has been used as part of another composite mark or where it is used in conjunction with another mark, even if the combination of marks is itself registered as a trade mark (judgment of 18/04/2013, C-12/12, 'SM JEANS/LEVI'S', para. 36).

Therefore, considering that the contested CTM is shown in independent role in the catalogues and the invoices refer to the goods sold in connection with the contested CTM, and that the contested CTM "Sensus" is often presented with "registered" symbol, ®, it is considered that the presence of other marks of the proprietor, such as "UBICA" or "BEKA", does not prevent the evidence from supporting the genuine use of the contested CTM "Sensus".

As to use of the contested CTM in relation to the registered goods, Article 51(2) CTMR states that where the grounds for revocation of rights exist in respect of only some of the goods for which it is registered, the rights of the proprietor shall be declared to be revoked in respect of those goods or services only.

Regarding the goods for which the contested CTM has been used, it must be noted that the invoices do not directly reveal for which kind of goods they refer. However, it is common that the invoices refer only to serial numbers or in-house titles of the goods in question, and not in detail describe the kind of goods. Therefore, examining the

evidence globally and taking various pieces together, the invoices and catalogues together show that the contested CTM is linked to part of the goods, namely to pillows and mattresses (except mattresses for medical use) and to the filling materials used in these goods (and goods related to them).

However, the evidence does not show the use in relation to the other goods for which the contested CTM is registered.

Global assessment

In this respect, in the overall assessment of the evidence, "a global assessment must be carried out, in which all the relevant factors of the particular case are taken into account. That assessment entails a degree of interdependence between the factors taken into account" (see GC judgment of 10 September 2008, Case T-325/06, CAPIO, paragraph 32; VITAFRUIT, loc. cit., paragraph 42, and HIPOVITON, loc. cit., paragraph 36).

When reviewing the evidence in its entirety, especially taking into account the invoices during the relevant time period and the fact that they indicate the economic extent of use relating to the genuine use of the earlier mark in part of the relevant market, it is considered that the evidence shows use of the earlier mark to a sufficient extent. This finding is supported by the evidence showing the catalogues of the products (indicating the nature of the use).

The applicant has claimed that the invoices do not mention clearly the type of the goods which have been sold and delivered, but to this extent it is pointed out that the evidence must be assessed globally. Considering that the connection between the contested CTM and the relevant goods is clearly shown in the product catalogues, and the extent of the use is shown by the invoices, and the evidence in its entirety supports the conclusion on behalf of the genuine use, these claims of the applicant are rejected.

Considering all the evidence and conclusions mentioned above, it is clear that the CTM proprietor has submitted sufficient evidence regarding the contested CTM, for the genuine use in relation to the following goods:

Class 17: *Soft cores, filling materials, top layers, quilted, stitched layers all of plastic for improving the comfort of mattresses, pillows, beds and bed coverings (semi-finished products); padding and stuffing materials for mattresses, not included in other classes; cellular plastic material for further processing and filling of mattresses and beds; plastic materials, (semi-manufactures) for stuffing, filling and covering mattresses, pillows, bolsters, bases of beds, beds, bunks.*

Class 20: *Mattresses, pillows, bolsters; all products relating to sleeping comfort, namely mattresses, pillows, bolsters.*

However, the evidence does not show the use for the following goods, namely:

Class 10: *Furniture, beds, mattresses, cushions, orthopaedic articles for medical use, excluding orthopedic corsets, medical braces and stockings.*

Class 17: *Soft cores, filling materials, top layers, quilted, stitched layers all of plastic for improving the comfort of furniture, cushions (semi-finished products); plastics in extruded form for use in manufacture; packing, stopping and insulating materials; padding and stuffing materials for cushions and furniture not included in other classes;*

cellular plastic material for further processing and filling of furniture, and cushions; alveolar plastic; plastic materials, (semi-manufactures) for stuffing, filling and covering sofas, divans, seats, armchairs, cushions, head rests, back and arms rests.

Class 20: *Furniture; goods made of plastic not included in other classes; cushions, beds, bases of beds, seats, armchairs, benches, bunks, sofas, divans, head rests, back and arm rests; alveolar plastic; all products relating to sleeping comfort, namely head rests (furniture), bedding (except bed linen), bases of beds.*

Bearing in mind the above considerations, the Cancellation Division concludes that the CTM proprietor did prove genuine use of CTM No 1 350 834 in the European Union in relation to a part of the goods for which it was registered (mentioned above previously in Classes 17 and 20). However, the rights of the proprietor of CTM No 1 350 834 shall be revoked for the remaining goods listed above in the same Classes (10, 17 and 20) as of 08/08/2013.

It must be noted that the applicant has referred to the decision of the Benelux Office for Intellectual Property, No 2 006 163, regarding the genuine use of the contested CTM. However, the case at hand has been decided on its own merits and on the basis of the evidence submitted by the CTM proprietor in the current case. Furthermore, the CTM proprietor has pointed out that the evidence in the case at hand is more extensive. Therefore, the referred national decision is not relevant for the outcome for this decision and the applicant's claims made on this extent are rejected.

COSTS

Pursuant to Article 85(1) CTMR and Rule 94 CTMIR, the losing party in revocation proceedings shall bear the fees and costs of the other party. According to Article 85(2) CTMR, where each party succeeds on some heads and fails on others, or if reasons of equity so dictate, the Cancellation Division shall decide a different apportionment of costs.

Since the application is successful only for part of the contested goods, both parties have succeeded on some heads and failed on others. Consequently, each party has to bear its own costs.

The Cancellation Division

Michaela SIMANDLOVA Tuomas MATTILA Gianluigi MANNUCCI

According to Article 59 CTMR, any party adversely affected by this decision has a right to appeal against this decision. According to Article 60 CTMR, notice of appeal must be filed in writing at the Office within two months of the date of notification of this decision.

Furthermore, a written statement of the grounds of appeal must be filed within four months of the same date. The notice of appeal will be deemed to be filed only when the appeal fee of EUR 800 has been paid.