2. European Renewable Energies Federation ASBL (EREF) shall bear its own costs and pay those of the Commission of the European Communities

3. It is not necessary to decide on the applications for leave to intervene brought by the French Republic, the Republic of Finland, Greenpeace France and Greenpeace Nordic.

**Judgment of the Court of First Instance (Second Chamber) of 19 November 2009 — Clearwire v OHIM (Clearwifi)**

**(Case T-399/08)**

(Community trade mark — International registration designating the European Community — Word mark CLEARWIFI — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94 (now Article 7(1)(c) of Regulation (EC) No 207/2009))

*Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks composed exclusively of signs or indications which may serve to designate the characteristics of goods (Council Regulation No 40/94, Art. 7(1)(c)) (see paras 27, 50-51)*

**Re:**

ACTION brought against the decision of the First Board of Appeal of OHIM of 30 June 2008 (R 706/2008-1) concerning the international registration, designating the European Community, of the sign CLEARWIFI.

**Information relating to the case**

| | |
|---|---|
| Applicant for the Community trade mark: | Clearwire Corporation |
| Community trade mark sought: | Word mark CLEARWIFI for services in Class 38 (international Registration No W00934594) |
| Decision of the examiner: | Application rejected |
| Decision of the Board of Appeal: | Appeal dismissed |

**Operative part**

The Court:

1. Dismisses the action;

2. Orders Clearwire Corporation to pay the costs.

**Order of the Court of First Instance (Sixth Chamber) of 24 November 2009 — Szomborg v Commission**

**(Case T-228/08)**

(Action for failure to act — Commission's failure to present a scientific assessment within the prescribed period — Non-actionable measure — Not individually concerned — Inadmissibility)

*1. Actions for failure to act — Natural or legal persons — Actionable omissions — Failure by the Commission to carry out a scientific assessment of the impact of the use of certain fishing nets on cetaceans — Inadmissibility (Art. 232, third para., EC; Council Regulation No 2187/2005, Arts 9(1) and 27) (see paras 15-19)*