5. *Non-contractual liability — Damage — Damage for which compensation is available — Concept — Costs incurred before the European Ombudsman (Arts 195(1) EC and 288, second para., EC; Statute of the European Ombudsman, Art. 2(6) and (7)) (see paras 90-91)*

Re:

APPLICATION for damages for the loss allegedly suffered by the applicant as a consequence of irregularities and infringements of Community law committed by the Office for Official Publications of the European Communities in connection with a number of Community tender procedures for electronic publication services.

Operative part

1. Dismisses the action as in part inadmissible and in part unfounded;

2. Orders C-Content BV to pay the costs.

Judgment of the General Court (First Chamber) of 28 September 2010 — Rosenruist v OHIM (Representation of two curves on a pocket)

(Case T-388/09)

(Community trade mark — Application for Community figurative mark representing two curves on a pocket — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009)

Community trade mark — Definition and acquisition of the Community trade mark — Absolute grounds for refusal — Marks devoid of any distinctive character (Council Regulation No 207/2009, Art. 7(1)(b)) (see paras 15, 27)

Re:

ACTION brought against the decision of the Second Board of Appeal of OHIM of 18 June 2009 (Case R 237/2009-2), concerning an application for registration as a Community trade mark of a figurative sign representing two curves on a pocket.

Information relating to the case

Applicant for the Community trade mark:	Rosenruist — Gestão e serviços, Lda
Community trade mark sought:	Figurative mark representing two curves crossed at one point inserted on a pocket for goods and services in Classes 18 and 25
Decision of the examiner:	Registration refused
Decision of the Board of Appeal:	Appeal dismissed

Operative part

1. Dismisses the action;

2. Orders Rosenruist — Gestão e serviços, Lda to pay the costs.