

**Judgment of the General Court of 4 March 2010 — Foshan City Nanhai Golden Step Industrial v Council**

(Case T-410/06) <sup>(1)</sup>

*(Dumping — Imports of footwear with uppers of leather originating in China and Vietnam — Calculation of the constructed normal value — Export price — Rights of the defence — Injury — Obligation to state the reasons on which the decision is based)*

(2010/C 113/60)

Language of the case: English

**Parties**

*Applicant:* Foshan City Nanhai Golden Step Industrial Co., Ltd (Lishui, China) (represented by: I. MacVay, Solicitor, R. Thompson QC, and K. Beal, Barrister)

*Defendant:* Council of the European Union (represented by: J.-P. Hix, acting as Agent, assisted by G. Berrisch, lawyer)

*Interveners in support of the defendant:* European Commission (represented by: H. van Vliet and T. Scharf, acting as Agents) and Confédération européenne de l'industrie de la chaussure (CEC) (Brussels, Belgium) (represented; initially by P. Vlaemminck, G. Zonnekeyn and S. Verhulst and subsequently by P. Vlaemminck and A. Hubert, lawyers)

**Re:**

Application for partial annulment of Council Regulation (EC) No 1472/2006 of 5 October 2006 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain footwear with uppers of leather originating in the People's Republic of China and Vietnam (OJ 2006 L 275, p. 1), in so far as it concerns the applicant.

**Operative part of the judgment**

*The Court:*

1. *Dismisses the action;*

2. *Orders Foshan City Nanhai Golden Step Industrial Co., Ltd to bear its own costs and to pay those incurred by the Council of the European Union;*

3. *Orders the European Commission and Confédération européenne de l'industrie de la chaussure (CEC) to bear their own costs.*

<sup>(1)</sup> OJ C 42, 24.2.2007.

**Judgment of the General Court of 18 March 2010 — Grupo Promer Mon Graphic v OHIM — PepsiCo (Representation of a circular promotional item)**

(Case T-9/07) <sup>(1)</sup>

*(Community design — Invalidity proceedings — Registered Community design representing a circular promotional item — Prior design — Ground for invalidity — Conflict — No different overall impression — Meaning of 'conflict' — Product at issue — Degree of freedom of the designer — Informed user — Article 10 and Article 25(1)(d) of Regulation (EC) No 6/2002)*

(2010/C 113/61)

Language of the case: English

**Parties**

*Applicant:* Grupo Promer Mon Graphic SA (Sabadell, Spain) (represented by: R. Almaraz Palmero, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: A. Folliard-Monguiral, Agent)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court:* PepsiCo Inc. (New York, United States) (represented by: E. Armijo Chávarri and A. Castán Pérez-Gómez, lawyers)

**Re:**

Action brought against the decision of the Third Board of Appeal of OHIM of 27 October 2006 (Case R 1001/2005-3) relating to invalidity proceedings between Grupo Promer Mon Graphic SA and PepsiCo Inc.

**Operative part of the judgment**

The Court:

1. *Annuls the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 27 October 2006 (Case R 1001/2005-3);*
2. *Orders OHIM and PepsiCo Inc. to bear their own costs and to pay those incurred by Grupo Promer Mon Graphic SA in the proceedings before the General Court;*
3. *Orders OHIM and PepsiCo to bear their own costs and to pay those incurred by Grupo Promer Mon Graphic in the proceedings before the Board of Appeal.*

(<sup>1</sup>) OJ C 56, 10.3.2007.

**Judgment of the General Court of 17 March 2010 —  
Mäurer + Wirtz v OHIM — (tosca de FEDEOLIVA)**

(Case T-63/07) (<sup>1</sup>)

*(Community trade mark — Opposition proceedings — Application for Community figurative mark toska de FEDEOLIVA — Earlier Community and national word marks TOSCA — Relative grounds for refusal — Failure to take an argument into consideration — Article 74(1) of Regulation (EC) No 40/94 (now Article 76(1) of Regulation (EC) No 207/2009))*

(2010/C 113/62)

Language of the case: English

**Parties**

Applicant: Mäurer + Wirtz GmbH & Co. KG (Stolberg, Germany) (represented by: D. Eickemeier, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: D. Botis, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Exportaciones Aceiteras Fedeliva, AIE (Jaén, Spain)

**Re:**

Action brought against the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 18 December 2006 (Case R 761/2006-2), concerning opposition proceedings between Mülhens GmbH & Co. KG and Exportaciones Aceiteras Fedeliva, AIE.

**Operative part of the judgment**

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 18 December 2006 (Case R 761/2006-2), to the extent that it rejects the opposition brought on the basis of Article 8(5) of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (now Article 8(5) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark);*
2. *Dismisses the action as to the remainder;*
3. *Orders Mäurer + Wirtz GmbH & Co. KG and the Office for Harmonisation in the Internal Market (Trade Marks and Designs) each to bear its own costs.*

(<sup>1</sup>) OJ C 95, 28.4.2007.

**Judgment of the General Court of 18 March 2010 — KEK  
Diavlos v European Commission**

(Case T-190/07) (<sup>1</sup>)

*(Financial assistance for the European citizen information programme (Prince) — Project concerning the preparation for the introduction of the euro in schools — Decision ordering reimbursement of the advance paid — Obligation to state reasons — Error of assessment)*

(2010/C 113/63)

Language of the case: Greek

**Parties**

Applicant: KEK Diavlos (Athens, Greece) (represented by: D. Chatzimichalis)