

Pleas in law and main arguments

The European Community, represented by the European Commission, concluded with the defendant, as member of a consortium, Contract No G1ST-CT-2002-50227-PLASMA-LEATHER concerning a specific research and technological development programme relating to cold plasma treatment for water-repellent leather.

The contract provided that the Commission would contribute financially to the proper performance of the project, by payment of a sum which would not exceed EUR 832 362. Within that framework the Commission paid to the defendant, through the coordinator of the consortium, an advance of EUR 23 036.31.

However, immediately after receipt of that sum the defendant declared to the coordinator that she had stopped the production of leather articles, had decided to move her business activities to a different line, could not guarantee successful conclusion of the project activities and considered that it would be better to leave the project at the beginning of all activities.

The defendant was repeatedly given notice to pay, but she did not return the amount of the advance although, as the coordinator has certified, she did not participate at all in the research and consequently did not use the advance for such a purpose.

By its action, the Commission seeks payment of the aforementioned sum owed and the interest due thereon.

Action brought on 12 August 2005 — Republic of Cyprus v Commission**(Case T-316/05)**

(2005/C 271/45)

*Language of the case: Greek***Parties**

Applicant(s): Republic of Cyprus (represented by: Petros Kliridis)

Defendant(s): Commission of the European Communities

Form of order sought

The applicant(s) claim(s) that the Court should:

- annul Regulation No 832/2005; ⁽¹⁾
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant puts forward the same pleas in law and main arguments that it has put forward in Case T-300/05.

⁽¹⁾ Commission Regulation (EC) No 832/2005 of 31 May 2005 on the determination of surplus quantities of sugar, isoglucose and fructose for the Czech Republic, Estonia, Cyprus, Latvia, Lithuania, Hungary, Malta, Poland, Slovenia and Slovakia (OJ No L 138, 1.6.2005, p. 3).

Action brought on 16 August 2005 — Kustom Musical Amplification/OHIM**(Case T-317/05)**

(2005/C 271/46)

*Language of the case: English***Parties**

Applicant(s): Kustom Musical Amplification Inc. (Cincinnati, USA) [represented by: M. Edenborough, barrister and T. Bamford, solicitor]

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Form of order sought

- Annul the Decision of the Second Board of Appeal No 1035/2004-2, or alternatively, annul partially such that the specification of goods is restricted to 'Stringed instruments, namely professional, electric guitars' in class 15;
- Remit the Community trade mark application No 3 206 372 to the office so as to allow the said application to proceed to advertisement;
- Order the respondent to pay to the appellant/applicant the costs incurred by the appellant/applicant in connection with this appeal and the appeal before the Board of Appeal and the prosecution before the examiner.

Pleas in law and main arguments

Community trade mark concerned: The three dimensional mark representing the body of the so-called Beast guitar for goods in class 15 (stringed instruments, namely guitars) (Community trade mark application No 3 206 372)

Decision of the examiner: Rejection of the trade mark application.

Decision of the Board of Appeal: Dismissal of the appeal.

Pleas in law: Violation of Article 7(1)(b) of Regulation 40/94.