

**Action brought on 29 June 2006 — Coca-Cola Company v OHIM — Azienda Agricola San Polo (MEZZOPANE)**

(Case T-175/06)

(2006/C 212/59)

*Language in which the application was lodged: Spanish***Parties**

*Applicant:* Coca-Cola Company (N.W Atlanta, Georgia, U.S.A) (represented by: E. Armijo Chavarri and A. Castán Pérez-Gómez, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Azienda Agricola San Polo Exe S.r.l

**Form of order sought**

- annul the decision of the First Board of Appeal of OHIM of 5 April 2006 in Case R-99/2005-1;
- order the Office to pay the costs.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* Azienda Agricola San Polo Exe S.r.l

*Community trade mark concerned:* Figurative mark 'MEZZOPANE' for goods in Class 33 — Application No 2 242 147.

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited in opposition:* Word mark 'MEZZO' and 'MEZZOMIX' for goods in Class 32.

*Decision of the Opposition Division:* Application for registration of the mark refused.

*Decision of the Board of Appeal:* Opposition Division's decision annulled.

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation (EC) No 40/94 since the goods designated by the opposing marks are similar, the opposing marks are visually and phonetically similar and the marks at issue are capable of giving rise to a likelihood of confusion in the course of trade.

**Action brought on 3 July 2006 — Ayuntamiento de Madrid and Madrid Calle 30 v Commission of the European Communities**

(Case T-177/06)

(2006/C 212/60)

*Language of the case: Spanish***Parties**

*Applicants:* Ayuntamiento de Madrid and Madrid Calle 30 (Madrid) (represented by: J. L. Buendía Sierra and R. González-Gallarza Granizo)

*Defendant:* Commission of the European Communities

**Form of order sought**

- order the cancellation of the classification by the European Commission (Eurostat) of Madrid Calle 30 in the 'public administration' sector, in accordance with the 'European System of Accounts' (ESA 95) set out in Annex A of Regulation (EC) No 2223/96 of the Council of 25 June 1996, which is based on the accounts published by the Commission (Eurostat) on 24 April 2006 on the data for the year 2005 on government deficit and debt for the application of the Protocol on the excessive deficit procedure;
- order the Commission of the European Communities to pay the costs.

**Pleas in law and main arguments**

This application seeks annulment of the classification by the European Commission (Eurostat) of Madrid Calle 30 S.A. in the 'public administration' sector, in accordance with the 'EUROPEAN SYSTEM OF ACCOUNTS — ESA 95' (ESA 95) set out in Annex A of Regulation (EC) No 2223/96 of 25 June 1996 on the European system of national and regional accounts in the Community (<sup>1</sup>). According to the applicants, that classification is based on the accounts published by the Commission (Eurostat) on 24 April 2006 on the data for the year 2005 on government deficit and debt for the application of the Protocol on the excessive deficit procedure annexed to the EC Treaty.

The applicants submit that Madrid Calle 30 is a corporation whose shares are held by the Ayuntamiento de Madrid and a private consortium, formed of three construction and service companies selected after a call for tenders subject to strict criteria in respect of market prices.