

2. Cases shall be allocated to the Chambers in turn, in accordance with the date on which they are registered at the Registry, following three separate rotas, namely:

- for cases concerning application of the competition rules applicable to undertakings, the rules on State aid and the rules on trade protection measures;
- for cases concerning the intellectual property rights referred to in Article 130(1) of the Rules of Procedure;
- for all other cases.

In applying those rotas, the Third Chamber shall be taken into consideration twice at each fifth turn.

The President of the Court of First Instance may derogate from the rotas on the ground that cases are related or with a view to ensuring an even spread of the workload.

Action brought on 1 December 2006 — Bateaux Mouches v OHIM — Castanet (Bateaux Mouches)

(Case T-365/06)

(2007/C 42/41)

Language in which the application was lodged: French

Parties

Applicant: SA Compagnie des Bateaux Mouches (Paris, France) (represented by: D. de Leusse, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Jean-Noël Castanet (Paris, France)

Form of order sought

The Court is asked to:

- Declare the action by Compagnie des Bateaux Mouches admissible;
- Annul the decision of the First Board of Appeal of OHIM of 7 September 2006 (Case R 1172/2005-1, Castanet v Compagnie des Bateaux Mouches);
- Order OHIM to pay the costs.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: the word mark 'Bateaux Mouches' for services in Classes 39, 41 and 42 — Community trade mark No 1 336 122

Proprietor of the Community trade mark: the applicant

Applicant for the declaration of invalidity: Jean-Noël Castanet

Decision of the Cancellation Division: rejection of the application for cancellation

Decision of the Board of Appeal: annulment of the decision of the Cancellation Division

Pleas in law: breach of Article 7(1)(b) of Council Regulation No 40/94 ⁽¹⁾ on the grounds that the contested decision wrongly held the applicant's trade mark to be descriptive and without distinctive character and inasmuch as it held that the applicant had not proved that its trade mark had acquired by usage a distinctive character for the services concerned.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

Action brought on 7 December 2006 — Holland Malt v Commission

(Case T-369/06)

(2007/C 42/42)

Language of the case: English

Parties

Applicant: Holland Malt BV (Lieshout, Netherlands) (represented by: O.W. Brouwer and D. Mes, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Annul, in full or in part, Articles 1, 2, 3 and 4 of the contested decision;
- order the defendant to pay the costs of the proceedings;
- take any other measures that the Court considers appropriate.