

**Judgment of the Court of First Instance of 11 December 2007 — Portela & Companhia v OHIM — Torrens Cuadrado and Gilbert Sanz (Bial)**

(Case T-10/06) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for figurative Community trade mark Bial — Earlier national word mark BIAL — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 — Proof of existence of the earlier mark — Coexistence of earlier marks — Plea amending subject matter of the proceedings — Evidence presented for the first time before the Court of First Instance — Costs incurred before the Opposition Division)*

(2008/C 22/79)

Language of the case: Portuguese

**Parties**

*Applicant:* Portela & Companhia, SA (S. Mamede do Coronado, Portugal) (represented by: J. Conceição Pimenta, Lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Novais Gonçalves, Agent)

*Other party to the proceedings before the Board of Appeal of OHIM, intervener before the Court of First Instance:* Juan Torrens Cuadrado and Josep Gilbert Sanz (Gava, Spain)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 14 September 2005 (Case R 897/2004-1) concerning opposition proceedings between (a) Juan Torrens Cuadrado and Josep Gilbert Sanz and (b) Portela & Companhia, SA.

**Operative part of the judgment**

*The Court:*

1. Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 14 September 2005 (Case R 897/2004-1) in so far as it orders the applicant to pay the sum of EUR 600 towards the costs incurred by Mr Torrens Cuadrado and Mr Gilbert Sanz for the opposition proceedings.
2. Dismisses the remainder of the application.
3. Orders Portela & Companhia, SA to pay, in addition to its own costs, half the costs incurred by OHIM.

<sup>(1)</sup> OJ C 60, 11.3.2006.

**Judgment of the Court of First Instance of 12 December 2007 — Ireland and Others v Commission**

(Joined Cases T-50/06, T-56/06, T-60/06, T-62/06 and T-69/06) <sup>(1)</sup>

*(State aid — Directive 92/81/EEC — Excise duty on mineral oils — Mineral oils used as fuel for the production of alumina — Exemption granted by the French, Irish and Italian authorities — New aid — Existing aid — Obligation to state reasons — Finding of the Court of its own motion)*

(2008/C 22/80)

Languages of the case: English, French and Italian

**Parties**

*Applicant in Case T-50/06:* Ireland (represented by: D. O'Hagan, Agent, and P. McGarry, Barrister)

*Applicant in Case T-56/06:* French Republic (represented by: G. de Bergues and S. Ramet, Agents)

*Applicant in Case T-60/06:* Italian Republic (represented by: G. Aiello, avvocato dello Stato)

*Applicant in Case T-62/06:* Eurallumina SpA (Portoscuso, Italy) (represented by: L. Martin Alegi, R. Denton and M. Garcia, Solicitors)

*Applicant in Case T-69/06:* Aughinish Alumina Ltd (Askeaton, Ireland) (represented by: J. Handoll and C. Waterson, Solicitors)

*Defendant:* Commission of the European Communities (represented by V. Di Bucci, N. Khan, P. Stancanelli and K. Walkerová, acting as Agents)

**Re:**

Actions for annulment of Commission Decision 2006/323/EC of 7 December 2005 on the exemption from excise duty on mineral oils used as fuel for alumina production in the Gardanne region, the Shannon region and Sardinia, implemented by France, Ireland and Italy respectively (OJ 2006 L 119, p. 12)

**Operative part of the judgment**

*The Court:*

1. Joins Cases T-50/06, T-56/06, T-60/06, T-62/06 and T-69/06 for the purposes of the judgment;
2. Annuls Commission Decision 2006/323/EC of 7 December 2005 concerning the exemption from excise duty on mineral oils used as fuel for alumina production in Gardanne, in the Shannon region and in Sardinia respectively implemented by France, Ireland and Italy;