

Action brought on 11 February 2008 — Berliner Institut für Vergleichende Sozialforschung v Commission

(Case T-73/08)

(2008/C 107/54)

*Language of the case: German***Parties***Applicant:* Berliner Institut für Vergleichende Sozialforschung eV (Berlin, Germany) (represented by: B. Henning, lawyer)*Defendant:* Commission of the European Communities**Form of order sought**

— Annul the Commission's decision of 26 November 2007 claiming repayment of the sum of EUR 23 228,07 in connection with the 'Daphne Grant Agreement JLS/DAP/2004-1/080/YC';

— order the Commission to pay the costs.

Pleas in law and main arguments

In May 2005, the applicant and the Commission signed an agreement on support for a project in connection with the Daphne II programme ⁽¹⁾. By debit note of 26 November 2007, the defendant reclaimed from the applicant part of the payment made in connection with this agreement. The applicant brought the present action against that decision.

The applicant claims in support of its action, first, that the contested decision is in breach of the obligation to state reasons. Second, the principle of a fair hearing has been infringed, as the applicant was not allowed an appropriate period of time to comment and to submit additional documents. Finally, the applicant complains that the contested decision is based on an erroneous assessment of the facts.

⁽¹⁾ Decision No 803/2004/EC of the European Parliament and of the Council of 21 April 2004 adopting a programme of Community action (2004 to 2008) to prevent and combat violence against children, young people and women and to protect victims and groups at risk (the Daphne II programme) (OJ 2004 L 143, p. 1).

Action brought on 13 February 2008 — JOOP! v OHIM (!)

(Case T-75/08)

(2008/C 107/55)

*Language in which the application was lodged: German***Parties***Applicant:* JOOP! GmbH (Hamburg, Germany) (represented by H. Schmidt-Hollburg and W. Möllering, lawyers)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)**Form of order sought**

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market of 26 November 2007 in Case R 1134/2007-1;

— Order the Office for Harmonisation in the Internal Market to pay the costs including those incurred during the appeal proceedings

Pleas in law and main arguments*Community trade mark concerned:* The figurative mark '!' for goods in Classes 14, 18 and 25 (application No 5 332 184)*Decision of the Examiner:* Rejection of the application*Decision of the Board of Appeal:* Dismissal of the appeal*Pleas in law:* Infringement of Article 7(1)(b) and (c) of Regulation (EC) No 40/94 ⁽¹⁾, as the mark applied for has distinctive character and its availability does not have to be preserved.

⁽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 18 February 2008 — Baldesberger v OHIM (shape of tweezers)

(Case T-78/08)

(2008/C 107/56)

*Language in which the application was lodged: German***Parties***Applicant:* Fides B. Baldesberger (Lugano, Switzerland) (represented by F. Nielsen, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)