

*Pleas in law:* Infringement of Article 7(1)(b) and (c) of Regulation (EC) No 40/94 <sup>(1)</sup>, as the mark applied for has sufficient distinctive character and is not descriptive.

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

**Action brought on 22 February 2008 — Global Digital Disc v Commission**

**(Case T-96/08)**

(2008/C 107/62)

*Language of the case: German*

**Parties**

*Applicant:* Global Digital Disc GmbH & Co. KG (Dresden, Germany) (represented by: E. Stein, lawyer)

*Defendant:* Commission of the European Communities

**Form of order sought**

— Annul Commission decision COMP/C-3/38.803 of 7 December 2007 — Global Digital Disc (GDD) v Philips;

— Order the defendant to pay the costs.

**Pleas in law and main arguments**

The applicant contests Commission decision COMP/C-3/38.803 of 7 December 2007 — Global Digital Disc (GDD) v Philips. In that decision the Commission dismissed the applicant's complaint, in which it pleaded several infringements of Article 82 EC by the party complained of in connection with that party's licensing practice in the CD-R field, pursuant to Article 7(2) of Regulation (EC) No 773/2004 <sup>(1)</sup>.

In its grounds of complaint the applicant contends first that the Commission failed to fulfil its obligation to give reasons. Furthermore the defendant infringed the applicant's rights of defence. Finally the applicant complains that the Commission's

arguments for rejecting the Community-wide importance of the subject-matter of the complaint are misjudged.

<sup>(1)</sup> Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ 2004 L 123, p. 18).

**Action brought on 20 February 2008 — KUKA Roboter v OHIM (colour mark orange)**

**(Case T-97/08)**

(2008/C 107/63)

*Language in which the application was lodged: German*

**Parties**

*Applicant:* KUKA Roboter GmbH (Augsburg, Germany) (represented by A. Kohn, lawyer)

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

**Form of order sought**

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market of 14 December 2007 in Case R 1572/2007-4;

— order the defendant to pay the costs.

**Pleas in law and main arguments**

*Community trade mark concerned:* The contourless colour mark orange for goods in Class 7 (Application No 4 607 801)

*Decision of the Examiner:* Rejection of the application

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

*Pleas in law:*

— Infringement of Article 28 EC as the contested decision constitutes a measure having equivalent effect to a quantitative restriction on imports

— Infringement of Article 7(1)(b) of Regulation (EC) No 40/94 <sup>(1)</sup>, as the mark applied for has distinctive character