

**Form of order sought**

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 8 November 2007 (Case No R 1656/2006-1);
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Community trade mark concerned:* the three-dimensional trade mark in the shape of a perfume bottle for goods in class 3 (Application No 4 995 361).

*Decision of the Examiner:* Dismissal of the application.

*Decision of the Board of Appeal:* Rejection of the appeal.

*Pleas in law:* Infringement of Article 7(1)(b) of Regulation (EC) No 40/94 <sup>(1)</sup>, because the trade mark applied for has a distinctive character.

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

**Appeal brought on 26 February 2008 by Kris Van Neyghem against the judgment of the Civil Service Tribunal delivered on 13 December 2007 in Case F-73/06, Van Neyghem v Commission**

(Case T-105/08 P)

(2008/C 107/66)

*Language of the case:* French

**Parties**

*Appellant:* Kris Van Neyghem (Vissenken, Belgium) (represented by S. Rodrigues and C. Bernard-Glanz, lawyers)

*Other party to the proceedings:* Commission of the European Communities

**Form of order sought by the appellant**

- declare the present appeal admissible;
- annul the judgment of the Civil Service Tribunal (Second Chamber) delivered on 13 December 2007 in Case F-73/06;

- uphold the claims for annulment and for compensation submitted by the appellant to the Civil Service Tribunal;
- order the Commission to pay the costs of both instances.

**Pleas in law and main arguments**

In his appeal, the appellant is seeking the annulment of the judgment of the Civil Service Tribunal (the 'Tribunal') dismissing his application, on the one hand, for the annulment of the decision of the selection board in general competition EPSO/A/19/04 not to admit the applicant to the oral test in that competition and, on the other, for damages for the material and non-material damage which he allegedly suffered.

In support of his appeal, the appellant pleads a misunderstanding of evidence produced before the Tribunal, namely, a copy of the written test.

The applicant pleads, in addition, an error in the Tribunal's reasoning concerning the absence of a manifest error of assessment on the part of the president of the selection board in the comparison between the mark given to the applicant and the literal assessment in the evaluation sheet.

**Action brought on 27 February 2008 — CPEM v Commission**

(Case T-106/08)

(2008/C 107/67)

*Language of the case:* French

**Parties**

*Applicant:* Centre de promotion de l'emploi par la micro-entreprise (CPEM) (Marseille, France) (represented by: C. Bonnefoi, lawyer)

*Defendant:* Commission of the European Communities

**Form of order sought**

- annulment of the debit note;
- recognise a right to damages for public detriment to the reputation of a body acting in the context of a task of general interest (estimated at EUR 100 000);
- repayment of lawyers' fees and the costs of legal assistance made necessary, proof of which can be provided.