

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 19 May 2006 (Case R 601/2005-2) relating to invalidity proceedings between Soft, SA and NewSoft Technology Corp.

Operative part of the judgment

1. *The action is dismissed.*
2. *NewSoft Technology Corp. is ordered to pay the costs.*

(¹) OJ C 237, 30.9.2006.

Judgment of the Court of First Instance of 22 May 2008 — Ott and Others v Commission

(Case T-250/06 P) (¹)

(Appeal — Cross-appeal — Admissibility — Civil Service — Officials — Promotion — Promotion for 2004 — Allocation of promotion points — General Implementing Provisions of Article 45 of the Staff Regulations — Plea of illegality — Substitution of grounds — Appeal, in part, manifestly inadmissible and, in part, manifestly unfounded — Dispute capable of being decided — Dismissal of the action)

(2008/C 171/57)

Language of the case: French

Parties

Applicants: Martial Ott (Oberanven, Luxembourg); Fernando Lopez Tola (Luxembourg, Luxembourg); and Francis Weiler (Itzig, Luxembourg) (represented by: F. Frabetti, lawyer)

Defendant: Commission of the European Communities (represented by: C. Berardis-Kayser and D. Martin, agents)

Re:

Appeal against the order of the Civil Service Tribunal of the European Union (Second Chamber) of 30 June 2006 *Ott and Others v Commission* (Case F-87/05, not yet published in the ECR) seeking the annulment of that order.

Operative part of the judgment

The Court:

1. *The order of the Civil Service Tribunal (Second Chamber) of 30 June 2006 Ott and Others v Commission is annulled in so far as it dismissed the action brought by Mr Francis Weiler;*
2. *For the rest, the appeal is dismissed;*
3. *The cross-appeal is dismissed;*
4. *The action brought before the Civil Service Tribunal as Case F-87/05 is dismissed in so far as it was brought by Mr Francis Weiler;*
5. *Mr Martial Ott, Mr Fernando Lopez Tola and Mr Francis Weiler shall bear their own costs in relation to the present instance and four fifths of the costs incurred by the Commission. The Commission shall bear one fifth of its own costs in relation to the present instance;*
6. *Mr Francis Weiler and the Commission shall bear their own costs in relation to the proceedings before the Civil Service Tribunal.*

(¹) OJ C 281 of 18.11.2006.

Judgment of the Court of First Instance of 22 May 2008 — Radio Regenbogen Hörfunk in Baden v OHIM (RadioCom)

(Case T-254/06) (¹)

(Community trade mark — Application for Community word mark RadioCom — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94)

(2008/C 171/58)

Language of the case: German

Parties

Applicant: Radio Regenbogen Hörfunk in Baden Geschäftsführungs-GmbH (Mannheim, Germany) (represented by: W. Göpfert, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 7 July 2006 (Case R 1266/2005-1) concerning an application for registration of the word mark RadioCom as a Community trade mark.