

1. In tender No 2034 for the production and duplication of CD-ROMs containing the L and C series of the Official journal: by awarding the tender to a competitor of the applicant, in spite of the applicant having submitted the economically most advantageous bid; by amending the key specifications and lowering tender requirements during the tender procedure or after the successful tenderer had been selected without informing other competitors; by refusing to carry out a proper review of the tender results when objections concerning the outcome of the tender were brought to the Publications Office's attention; by failing to organise a new tender instead of continuing contract No 2034 on the basis of significantly lowered standards.
2. In tender No 6019 for the provision of services in relation to electronic publications, in particular the Supplement (S) of the Official Journal, after the accession of 10 new member States: by cancelling the tender on the basis of Article 101 of Regulation 1605/2002 ⁽¹⁾ for reason of disclosure of confidential information; the applicant submits that the said disclosure could not have influenced the tender results as the information was already in the public knowledge and the bids had already been submitted by then. Moreover, the applicant claims that there was no proper motivation given by the Publications Office. It finally submits that the cancellation caused significant damage to the applicant which had submitted the most advantageous of the two remaining bids within the cancelled tender.
3. In tender No 1695 for the provision of services in relation to electronic publications, in particular the Supplement (S) of the Official Journal: by using the extension of Contract No 1695 to amend it. The applicant claims that there was no legal basis for the Publications Office to proceed or to authorise the extension of the Contract and, in consequence, to amend it by changing the subcontractor. The applicant submits that the Publications Office failed to seriously negotiate or investigate the possibility of maintaining the applicant as the existing main subcontractor during the remaining period.

The applicant claims that as a direct result of the abovementioned infringements, it lost its position as the Publications Office's software provider and incurred significant costs, damages and loss of profits and it considers the Publications Office to be liable to compensate them.

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 248 p. 1).

Action brought on 24 June 2008 — Coin v OHIM — Dynamiki Zoi (FITCOIN)

(Case T-249/08)

(2008/C 209/112)

Language in which the application was lodged: English

Parties

Applicant: Coin SpA (Mestre, Venezia, Italy) (represented by: P. Perani and P. Pozzi, lawyers)

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

Other party to the proceedings before the Board of Appeal: Dynamiki Zoi Anonymi Etairia (Peristeri, Greece)

Form of order sought

- Alter the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 April 2008 in case R 1429/2007-1;
- Reject Community trade mark No 3 725 298 'FITCOIN'; and
- Order the other parties to pay the costs, including those of the OHIM opposition and appeal proceedings.

Pleas in law and main arguments

Applicant for the Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'FITCOIN' for goods and services in classes 16, 25, 28, 35, 36 and 41 — application No 3 725 298

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited: The Italian trade mark 'coin' registration No 160 126 for goods in class 25; the Italian trade mark 'coin' registration No 253 233 for goods and services in classes 16, 25, 28, 35, 36 and 41; the Italian trade mark 'coin' registration No 240 305 for goods and services in classes 16, 25, 28, 35, 36 and 41; the Italian trade mark 'coin' registration No 169 548 for goods and services in classes 16, 25, 28, 35, 36 and 41, extended to Benelux, France, Hungary, Austria and Portugal; the Italian trade mark 'coin' registration No 240 286 for goods and services in class 25, extended to Benelux, France, Hungary and Austria; Community trade mark 'coin' registration No 109 827 for goods and services in classes 16, 25, 28, 35; international trade mark 'coin' registration No R 381 015 for goods and services in classes 16, 25, 28, 35, 36 and 41, extended to Benelux, Germany, Spain, France, Hungary, Austria, Portugal and Slovenia.

Decision of the Opposition Division: Rejection of the opposition in its entirety

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 8 of Council Regulation No 40/94 as the trade marks concerned are visually and phonetically similar and the goods and services covered by the trade marks concerned are identical; infringement of Article 8 of Council Regulation No 40/94 as the use of the trade mark applied for is likely to cause confusion.

Action brought on 18 June 2008 — Batchelor v Commission

(Case T-250/08)

(2008/C 209/113)

Language of the case: English

Parties

Applicant: Edward William Batchelor (Brussels, Belgium) (represented by: F. Young, Solicitor, A. Barav, Barrister, and D. Reymond, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- Annul the implied negative decision deemed, pursuant to Article 8(3) of the Access Regulation, to have been made by the European Commission on 9 April 2008 and the express negative decision made by the Commission on 16 May 2008, relating to a request for access to documents presented pursuant to Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43);
- Order the Commission to pay its own costs and the costs incurred by the applicant in relation to these proceedings.

Pleas in law and main arguments

This application for annulment under Article 230 EC is directed against the Commission's implied decision of 9 April 2008 and its express decision of 16 May 2008, made pursuant to Regulation (EC) No 1049/2001⁽¹⁾ ('the Access Regulation'), by which the Commission rejected the applicant's request for access to documents relating to the notification of measures taken under Article 3a(1) of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation

or administrative action in Member States concerning the pursuit of television broadcasting activities.

The applicant claims that the contested decision violates Article 253 EC and Articles 7(1) and 8(1) of the Access Regulation and thus is vitiated by an infringement of an essential procedural requirement, namely, by failing to give sufficient reasons for denial of access to the documents requested. The applicant further submits that, in denying access to the documents requested, the contested decision violates Article 255 EC and Articles 1(a), 2(1) and (3), 4(1) to (6) of the Access Regulation. In particular, the applicant contends that the contested decision infringes the Access Regulation in holding that the exceptions under the second paragraph of Article 4(3) and of the first and third indents of Article 4(2) thereof applied and, finally, that the contested decision infringes Article 4(6) of the Access Regulation in failing to provide reasons for the refusal of partial access to the documents requested.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 26 June 2008 — Tipik v Commission

(Case T-252/08)

(2008/C 209/114)

Language of the case: French

Parties

Applicant: Tipik Communication Agency SA (Brussels, Belgium) (represented by: E. Gillet, L. Levi and C. Dubois, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Annul the decision of the Commission, the date of which is unknown, by which it was decided to reject the tender submitted by the applicant in the award procedure for the public service contract concerning, inter alia, the EUROPA Internet site (PO/2007-31/C2);
- Annul the decision of the Commission, the date of which is unknown, by which it was decided to award that public contract to the consortium led by the company *Européenne Service Network*;