

— Order the defendant to indemnify the applicant for the loss suffered by reason of the adoption of those irregular decisions, which amounts to EUR 5 063 773,29, together with late-payment interest to run from the date of the judgment to be delivered by the Court of First Instance until payment in full. The rate of late-payment interest to be applied is to be calculated on the basis of the rate fixed by the European Central Bank for main refinancing operations, applicable during the period concerned, increased by three points;

— Order the defendant to pay the costs.

Pleas in law and main arguments

The applicant contests the decision of the Commission to reject its tender submitted in the context of the invitation to tender for the contract entitled 'Communication via EUROPA — the official website of the EU and other online and printed information and communication products managed by the Directorate-General Communication of the European Commission — editorial, graphical and technical and translation assistance in design, production and maintenance' (OJ 2007/S 193-234221), and the decision to award the contract to the consortium led by European Service Network. In addition, the applicant seeks compensation for the loss allegedly caused by the errors committed by the Commission.

In support of its action, the applicant submits, principally, that the Commission should have excluded the consortium led by European Service Network from the procedure for the award of the contract, since one of the members of that consortium had been declared to be in serious breach of its contractual obligations in respect of a contract intended for services of OPOCE similar to those which are the subject-matter of the contract at issue.

In the alternative, the applicant submits that the Commission has committed a manifest error of assessment when examining the tender submitted by the consortium led by European Service Network in that it awarded to it the same mark as the applicant for the quality criterion, although it could not be certain as to the capacity of that consortium to supply satisfactory technical solutions in that regard.

The applicant submits that those irregularities are such as to render the Commission liable since, on the one hand, it committed an error and, on the other, it seriously and manifestly disregarded the limits imposed on its discretion.

Action brought on 16 June 2008 — Eugenia Montero Padilla v OHIM — Padilla Requena (JOSE PADILLA)

(Case T-255/08)

(2008/C 209/115)

Language in which the application was lodged: Spanish

Parties

Applicant: Eugenia Montero Padilla (Madrid, Spain) (represented by: G. Aguilauame Gandasegui and P. Linde Puelles, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: José María Padilla Requena

Form of order sought

Annul OHIM's decision of 1 March 2008 and order that the application for registration be refused in respect of Community trade mark 'JOSE PADILLA' for Classes 9a, 23a and 41a.

Pleas in law and main arguments

Applicant for a Community trade mark: Eugenia Montero Padilla

Community trade mark concerned: Word mark 'JOSE PADILLA' (registration application No 2.844.066) for goods and services in Classes 9, 25 and 41.

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

Mark or sign cited in opposition: Word mark 'JOSE PADILLA' (registration application No 2.844.066) for goods and services in Class 41.

Decision of the Opposition Division: Dismissal of the opposition

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

Pleas in law: Incorrect application of Articles 4 and 7(1)(a),(b),(c) and (f) Article 8(1) and (5) of Regulation (EC) No 40/94 on the Community trade mark.