

Pleas in law and main arguments

The applicant and the Commission signed a contract in May 2005 concerning the promotion of a project in the context of the INTI programme. By letter dated 23 May 2008, the defendant granted the applicant a lower final payment than that for which the latter had applied. The present action is directed against the rejection of its application for payment of the costs exceeding the authorised sum.

The applicant asserts in support of its action that the Commission's view that a change of project participants after the conclusion of the financing arrangement is only possible if an appropriate alteration agreement is concluded is unfounded. This is due to the fact that a provision to that effect is not included in the financing arrangement. Further, the Commission refused to recognise costs on various grounds, which are incompatible with the financing arrangement and with previous institutional practice.

Action brought on 29 July 2008 — Mepos Electronics v OHIM (MEPOS)

(Case T-297/08)

(2008/C 247/39)

Language in which the application was lodged: English

Parties

Applicant: Mepos Electronics Ltd (Kaohsiung, Taiwan) (represented by M. Wirtz, lawyer)

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

Form of order sought

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 28 May 2008 in case R 437/2008-2;
- Grant the request for *restitutio in integrum*; and
- Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The figurative mark 'MEPOS' for goods in class 9 — application No 5 770 383

Decision of the examiner: Refusal of the applicant's trade mark

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Articles 36, 77(a) and 79 of Council Regulation No 40/94, as well as Article 6 of European Convention on Human Rights and Article 6(2) of Treaty on

European Union as the Board of Appeal erred in concluding that the examiner has followed a lawful proceeding in the application process; infringement of Article 78 of Council Regulation No 40/94 as the Board of Appeal erred by not granting the request for *restitutio in integrum* for failure to comply with the time-limit to file an appeal.

Action brought on 31 July 2008 — Aldi v OHIM — Catalana de Telecomunicacions Societat Operadora de Xarxes (ALDI)

(Case T-298/08)

(2008/C 247/40)

Language in which the application was lodged: German

Parties

Applicant: Aldi GmbH & Co. KG (Mülheim an der Ruhr, Germany) (represented by: N. Lützenrath, U. Rademacher, L. Kolks and C. Fürsen, 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: Catalana de Telecomunicacions Societat Operadora de Xarxes, SA (Barcelona, Spain)

Form of order sought

- Annulment of the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 May 2008 (Case No R 1301/2007-1);
- Order the defendant to pay all the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant.

Community trade mark concerned: the word mark 'ALDI' for goods and services in Classes 35, 38, and 39 (application No 3 360 914).

Proprietor of the mark or sign cited in the opposition proceedings: Catalana de Telecomunicacions Societat Operadora de Xarxes, SA.

Mark or sign cited in opposition: the Spanish word mark 'ALPI' for services in Class 38 (Mark No 2 262 920), the Spanish word mark 'ALPI' for services in Class 39 (Mark No 2 262 921) and the international word mark 'ALPI' for services in Classes 37, 38, 39 and 42 (Mark No 789 344), opposition being filed to registration for services in Class 38.