

**Action brought on 29 September 2008 — FIFA v OHIM — Ferrero (WORLD CUP 2006 GERMANY)**

(Case T-448/08)

(2008/C 313/92)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Fédération Internationale de Football Association (FIFA) (Zurich, Switzerland) (represented by: D. Alexander QC, A. Barav, Barrister, R. Buchel and C. Rassmann, lawyers)

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

*Other party to the proceedings before the Board of Appeal:* Ferrero OHG mbH (Stadtallendorf, Germany)

**Form of order sought**

- Annul, in whole or in part, the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 30 June 2008 in case R 1470/2005-1; and
- Order OHIM to pay the costs.

**Pleas in law and main arguments**

*Registered Community trade mark subject of the application for a declaration of invalidity:* The word mark 'WORLD CUP 2006 GERMANY' for goods and services in classes 1, 3, 4, 6, 7, 8, 9, 11, 12, 14, 16, 18, 20, 25, 28, 29, 30, 32, 35, 36, 37, 38, 41 and 42 — Community trade mark registration No 2 047 843

*Proprietor of the Community trade mark:* The applicant

*Party requesting the declaration of invalidity of the Community trade mark:* The other party to the proceedings before the Board of Appeal

*Decision of the Cancellation Division:* Rejection of the application for a declaration of invalidity

*Decision of the Board of Appeal:* Annulment of the decision of the Cancellation Division

*Pleas in law:* (i) Infringement of Article 73 and 74(1) of Council Regulation No 40/94 in so far as the Board of Appeal has based, largely, its decision on Article 7(1)(c) of Council Regulation No 40/94, a provision which was neither invoked by the other party to the proceedings before the Board of Appeal, nor relied upon by the Cancellation Division; (ii) Alternatively, infringement of Article 7(1)(c) of Council Regulation No 40/94 as the Board of Appeal failed to consider the registered Com-

munity trade mark subject of the application for a declaration of invalidity as a whole, through the eyes of the average consumer and to apply the relevant law relating to the assessment of descriptiveness of the goods and/or services applied for; and (iii) Infringement of Article 7(1)(b) of Council Regulation No 40/94 as the Board of Appeal erred in its finding that the registered Community trade mark subject of the application for a declaration of invalidity was devoid of the necessary distinctive character.

**Action brought on 2 October 2008 — Stim v Commission**

(Case T-451/08)

(2008/C 313/93)

*Language of the case: English*

**Parties**

*Applicant:* Föreningen Svenska Tonsättares Internationella Musikbyrå (Stim) u.p.a. (Stockholm, Sweden) (represented by: C. Thomas, Solicitor and N. Pourbaix, lawyer)

*Defendant:* Commission of the European Communities

**Form of order sought**

- Annul Articles 3 and 4(2), and Article 4(3) to the extent that it refers to Article 3, of the Commission decision of 16 July 2008 relating to a proceeding under Article 81 EC and Article 53 EEA in case COMP/C2/38.698 — CISAC;
- Order the Commission to pay the applicant's costs.

**Pleas in law and main arguments**

By means of its application the applicant seeks partial annulment of the Commission decision of 16 July 2008 relating to a proceeding under Article 81 EC and Article 53 EEA (Case COMP/C2/38.698 — CISAC) and in particular, of its Article 3, determining that the EEA CISAC<sup>(1)</sup> members engaged in a concerted practice in violation of Article 81 EC and Article 53 EEA by coordinating the territorial delineations of the reciprocal representation mandates granted to one another in a way which limits a licence to the domestic territory of each collecting society.

In support of its claims the applicant submits the following: