

**Order of the Court of First Instance of 19 December 2008**  
**— Bomba Energia Getränkevertriebs v OHIM —**  
**Eckes-Granini (Bomba)**

(Case T-372/06) <sup>(1)</sup>

*(Community trade mark — Opposition — Withdrawal of the opposition — No need to adjudicate)*

(2009/C 55/45)

*Language of the case: German*

**Parties**

*Applicant:* Bomba Energia Getränkevertriebs GmbH (Rohrbach, Austria) (represented by: A. Kockläuner, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: M. Kicia, acting as Agent)

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance:* Eckes-Granini Group GmbH, formerly Eckes-Granini GmbH & Co. KG (Nieder-Olm, Germany) (represented by: W. Berlit, lawyer)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 3 October 2006 (Case R 184/2005-2) relating to opposition proceedings between Eckes-Granini GmbH & Co. KG and Bomba Energia Getränkevertriebs GmbH

**Operative part of the order**

1. *There is no longer any need to adjudicate on the action.*
2. *Bomba Energia Getränkevertriebs GmbH and Eckes-Granini Group GmbH are ordered to bear their own costs and are also ordered to pay half of the costs of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) each.*

<sup>(1)</sup> OJ C 42, 24.2.2007.

**Order of the Court of First Instance of 17 December 2008**  
**— Portela v Commission**

(Case T-137/07) <sup>(1)</sup>

*(Non-contractual liability — Marketing of defective digital thermometers bearing the marking ‘CE’ — Failure to act on the part of the Commission — Causal connection — Action in part manifestly inadmissible and in part manifestly unfounded in law)*

(2009/C 55/46)

*Language of the case: Portuguese*

**Parties**

*Applicant:* Portela — Comércio de artigos ortopédicos e hospitalares, L<sup>da</sup> (Queluz, Portugal) (represented by: C. Mourato, lawyer)

*Defendant:* Commission of the European Communities (represented by: P. Guerra e Andrade and B. Schima, acting as Agents)

**Re:**

Claim requesting that the Court of First Instance should impose on the Commission the obligation to act in accordance with Article 14b of Council Directive 93/42/EEC of 14 June 1993 concerning medical devices (OJ 1993 L 169, p. 1), as amended by Directive 98/79/EC of the European Parliament and of the Council of 27 October 1998 on in vitro diagnostic medical devices (OJ 1998 L 331, p. 1), by ordering the certification company TÜV Rheinland Product Safety GmbH, through the Federal Republic of Germany, to activate, in favour of the applicant, the mandatory civil liability insurance provided for in point 6 of Annex XI to Directive 93/42, which that company took out, and, if the alleged damage cannot be remedied by the principal claim, in the alternative, a claim for compensation for the damage sustained by the applicant on account of the various omissions on the part of the Commission

**Operative part of the order**

1. *The action is dismissed.*
2. *Portela — Comércio de artigos ortopédicos e hospitalares, L<sup>da</sup> is ordered to pay the costs.*

<sup>(1)</sup> OJ C 155, 7.7.2007.