

**Order of the Court (Eight Chamber) of 24 September 2009 — *Compagnie des bateaux mouches SA v Office for Harmonization in the Internal Market (trade marks and designs)*, Jean-Noël Castanet**

(Case C-78/09 P) <sup>(1)</sup>

**(Appeal — Community trade mark — Word mark BATEAUX MOUCHES — Refusal of registration — Absence of any distinctive character)**

(2010/C 24/29)

*Language of the case: French*

#### **Parties**

*Appellant:* Compagnie des bateaux mouches SA (represented by: G. Barbaut, avocat)

*Other parties to the proceedings:* Office for Harmonization in the Internal Market (trade marks and designs), (represented by: A. Folliard-Monguiral, acting as Agent), Jean-Noël Castanet (represented by: J.-P. Sulzer, lawyer)

#### **Re:**

Appeal against the judgment of the Court of First Instance (Seventh Chamber) of 10 December 2008 in Case T-365/06 *Bateaux mouches v OHMI* by which the Court dismissed the action brought by the applicant against the decision of the First Board of Appeal of OHIM of 7 September 2006, concerning proceedings for invalidity of the Community word mark 'BATEAUX MOUCHES' — Infringement of Article 7(1)(b) and (3) of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1) — Misinterpretation of the criteria laid down by the case-law of the Court of Justice — Absence of any distinctive character

#### **Operative part of the order**

*The Court:*

1. *Dismisses the appeal.*
2. *Orders the Compagnie des bateaux mouches SA to pay the costs.*

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<sup>(1)</sup> OJ C 102 of 01.05.2009

**Order of the Court of 20 November 2009 (reference for a preliminary ruling from the Tribunal de grande instance de Paris — France) — Olivier Martinez, Robert Martinez v Société MGN LIMITED**

(Case C-278/09) <sup>(1)</sup>

**(Regulation (EC) No 44/2001 — Jurisdiction in civil and commercial matters — National Court not eligible to refer questions to the Court of Justice for preliminary ruling for the purposes of Article 68(1) EC — Court's lack of jurisdiction)**

(2010/C 24/30)

*Language of the case: French*

#### **Referring court**

Tribunal de grande instance de Paris

#### **Parties to the main proceedings**

*Applicant:* Olivier Martinez, Robert Martinez

*Defendant:* Société MGN LIMITED

#### **Re:**

Reference for a preliminary ruling — Tribunal de grande instance de Paris — Interpretation of Articles 2 and 5(3) of Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ L 12 of 16.1.2001, p. 1) — Competent jurisdiction for the resolution of an action for infringement of privacy and the right of personal portrayal, following the placing online of information and photographs on an internet site disseminated from a server housed in the territory of a Member State other than that in which the plaintiff is domiciled — Determination of the place where the event which gave rise to the damage occurred — Relevance, in order to determine the place, of the number of connections to the internet page at issue effected from the Member State in which the plaintiff is domiciled, the nationality of the plaintiff and, where appropriate, the language in which the information was disseminated

#### **Operative part**

*The Court of Justice of the European Communities has no jurisdiction to answer the question referred by the Tribunal de grande instance de Paris in Case C 278/09.*

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<sup>(1)</sup> JO C 220 of 12.09.2009