

Operative part of the judgment

The Court:

1. *Annuls the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 27 October 2006 (Case R 1001/2005-3);*
2. *Orders OHIM and PepsiCo Inc. to bear their own costs and to pay those incurred by Grupo Promer Mon Graphic SA in the proceedings before the General Court;*
3. *Orders OHIM and PepsiCo to bear their own costs and to pay those incurred by Grupo Promer Mon Graphic in the proceedings before the Board of Appeal.*

(¹) OJ C 56, 10.3.2007.

**Judgment of the General Court of 17 March 2010 —
Mäurer + Wirtz v OHIM — (tosca de FEDEOLIVA)**

(Case T-63/07) (¹)

(Community trade mark — Opposition proceedings — Application for Community figurative mark toska de FEDEOLIVA — Earlier Community and national word marks TOSCA — Relative grounds for refusal — Failure to take an argument into consideration — Article 74(1) of Regulation (EC) No 40/94 (now Article 76(1) of Regulation (EC) No 207/2009)

(2010/C 113/62)

Language of the case: English

Parties

Applicant: Mäurer + Wirtz GmbH & Co. KG (Stolberg, Germany) (represented by: D. Eickemeier, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: D. Botis, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Exportaciones Aceiteras Fedeloliva, AIE (Jaén, Spain)

Re:

Action brought against the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 18 December 2006 (Case R 761/2006-2), concerning opposition proceedings between Müllhens GmbH & Co. KG and Exportaciones Aceiteras Fedeloliva, AIE.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 18 December 2006 (Case R 761/2006-2), to the extent that it rejects the opposition brought on the basis of Article 8(5) of Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (now Article 8(5) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark);*
2. *Dismisses the action as to the remainder;*
3. *Orders Mäurer + Wirtz GmbH & Co. KG and the Office for Harmonisation in the Internal Market (Trade Marks and Designs) each to bear its own costs.*

(¹) OJ C 95, 28.4.2007.

**Judgment of the General Court of 18 March 2010 — KEK
Diavlos v European Commission**

(Case T-190/07) (¹)

(Financial assistance for the European citizen information programme (Prince) — Project concerning the preparation for the introduction of the euro in schools — Decision ordering reimbursement of the advance paid — Obligation to state reasons — Error of assessment)

(2010/C 113/63)

Language of the case: Greek

Parties

Applicant: KEK Diavlos (Athens, Greece) (represented by: D. Chatzimichalis)