— infringement of the principle of proper administration and Articles 84 and 94 of the Financial Regulation, since the evaluation procedure was proceeded with, even though only one tender remained and the defendant took no action when the applicant informed it of a conflict of interests that favoured ICAS Consortium;

— an error of law committed by the defendant in rejecting the applicant's tender on the basis of Article 120(4) of the Implementing Rules of the Financial Regulation, since that article does not allow a tender to be rejected automatically without being evaluated, unless it fails to meet an essential requirement or a specific requirement in the specification;

— the alleged infringements of the legal rules caused direct and certain loss to the applicant, for which it is justified in seeking compensation.

Action brought on 13 September 2010 — Cortés del Valle López v OHIM (HIJOPUTA)

(Case T-417/10)

(2010/C 301/94)

Language of the case: Spanish

Parties

Applicant: Federico Cortés del Valle López (Maliaño, Spain) (represented by J. Calderón Chavero, lawyer)

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

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) (OHIM) of 18 June 2010 in case R 175/2010-2;

— consequently, annul the OHIM examiner's decision of 24 November 2009;

— uphold the applicant's claims;

— order the defendant to pay the costs of the present proceedings should they be contested and reject its contentions.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark containing the word element '¡Que buenu ye! HIJOPUTA' for goods and services in Classes 33, 35 and 39.

Decision of the Examiner: Application for a Community trade mark refused.

Decision of the Board of Appeal: Appeal dismissed.

Pleas in law: No infringement of Article 7(1)(f) of Regulation No 207/2009, [1] as the mark applied for is not contrary to accepted principles of morality.

[1] Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

Action brought on 15 September 2010 — voestalpine and voestalpine Austria Draht v Commission

(Case T-418/10)

(2010/C 301/95)

Language of the case: German

Parties

Applicants: voestalpine AG (Linz, Austria), voestalpine Austria Draht GmbH (Bruck an der Mur, Austria) (represented by: A. Ablasser-Neuhuber and G. Fussenegger, lawyers)

Defendant: European Commission

Form of order sought

— Annul Commission Decision C(2010) 4387 final of 30 June 2010 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement in Case COMP/38.344 — Prestressing steel, in so far as it relates to the applicants;

— in the alternative, reduce the fine imposed on the applicants under Article 2 of the Decision;

— order the Commission to pay the costs.

Pleas in law and main arguments

The applicants contest Commission Decision C(2010) 4387 final of 30 June 2010 in Case COMP/38.344 — Prestressing steel. The contested decision imposed fines on the applicants and other undertakings for infringement of Article 101 TFEU and Article 53 of the EEA Agreement. According to the Commission, the applicants participated in a continuing agreement and/or concerted action in the prestressing steel sector in the internal market and the EEA.

In support of their action, the applicants have submitted three pleas in law.