

**Pleas in law and main arguments**

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging infringement of Article 107(1) TFEU, insofar as according to that provision what the Commission regards as a failure by the State to take the steps necessary to recover the amounts owed to it is neither new State aid within the meaning of Article 1(c) of Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty,<sup>(1)</sup> nor an alteration to existing aid. The applicant also claims that there is no increase in the State's overall financial burden; and even if that were the case, it would also not be a basis on which to regard the facts at issue as new aid.
2. Second plea in law, alleging the infringement of the third ground referred to in Article 263(2) TFEU, insofar as the Commission, without adducing any proof and without providing reasons, incorrectly assumed that the fact that the State has not reclaimed the amounts owed constitutes an anti-competitive advantage for the company and is therefore incompatible with the internal market.
3. Third plea in law, alleging a procedural error because the Commission's decision does not contain the reasons which led to the drafting of its conclusions.
4. Fourth plea in law, alleging infringement of Article 14 of Regulation (EC) No 659/1999, because the contested decision does not indicate either the level of the amount to be reclaimed from the applicant or the corresponding interest at a reasonable rate determined by the Commission.

<sup>(1)</sup> OJ 1999 L 83, p. 1.

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**Action brought on 19 September 2011 — Streng v OHIM — Gismondi (PARAMETRICA)**

(Case T-495/11)

(2011/C 347/67)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Michael Streng (Erding, Germany) (represented by: A. Pappert, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Fulvio Gismondi (Roma, Italy)

**Form of order sought**

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 July 2011 in case R 1348/2010-4, and refer the case back to the Fourth Board of Appeal; and
- Order the defendant to pay the costs.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The other party to the proceedings before the Board of Appeal

*Community trade mark concerned:* The word mark 'PARAMETRICA', for services in classes 36 and 42 — Community trade mark application No 6048433

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited in opposition:* German trade mark registration No 30311096 of the word mark 'parameta', for services in classes 35, 38, 41 and 42

*Decision of the Opposition Division:* Upheld the opposition in its entirety

*Decision of the Board of Appeal:* Annulled the decision of the Opposition Division and rejected the opposition

*Pleas in law:* Infringement of Rules 19(2) and (3) in connection with Rule 98(1) of Commission Regulation (EC) No 2868/95, as the Board of Appeal wrongly considered that the submitted documents containing WIPO INID codes are not in the language of the proceedings and/or taken together with the translation provided in the writ of 3 November 2008, do not constitute 'translation' within the meaning of Rule 98(1) CTMIR.

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**Action brought on 16 September 2011 — Evropaïki Dynamiki v Commission**

(Case T-498/11)

(2011/C 347/68)

*Language of the case: English*

**Parties**

*Applicant:* Evropaïki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: N. Korogiannakis and M. Dermizakis, lawyers)

*Defendant:* European Commission

**Form of order sought**

- Annul the decision of the Publications Office of the European Union rejecting the offer submitted by the applicant in the tendering procedure-Invitation to specific tender no. 10369 'Revamping of the OLAF website' implementing Competitive Multiple Framework Service