

Pleas in law:

- Infringement of Article 42(2) in conjunction with Article 78(1)(f) of Regulation No 207/2009;
- Infringement of the right to be heard regarding the erroneous assessment of the evidence constituted by the declaration on oath;
- Infringement of the right to be heard regarding the erroneous assessment of the evidence constituted by the extracts from the Internet;
- Infringement of the right to be heard regarding the assessment of the proof of use in its entirety;
- Infringement of the right to be heard regarding the failure to take the proof of use into account;
- Infringement of Article 76(2) of Regulation No 207/2009

Action brought on 1 July 2013 — Orange Business Belgium v Commission

(Case T-349/13)

(2013/C 252/64)

Language of the case: English

Parties

Applicant: Orange Business Belgium SA (Brussels, Belgium) (represented by: B. Schutyser, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul the decision of DG DIGIT of the European Commission, notified to the applicant on 19 April 2013, rejecting the applicant's tender and awarding the contract to another tenderer;
- In the event at the time of the rendering of the judgment the Commission would have already signed the Trans European Services for Telematics between Administrations — new generation ('TESTA-ng') contract, declare that this contract is null and void; and
- Order the defendant to pay the costs of the proceedings, including the expenses for legal counsel incurred by the applicant.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant violated the

tendering specifications, Article 89(1) and Article 100(1) of the Financial Regulation 1605/2002 ⁽¹⁾ (Article 102(1) and Article 113(1) of the Financial Regulation 966/2012) in particular the principles of transparency, equality and non-discrimination because a) some communicated evaluation rules were not applied, b) some communicated evaluation rules were wrong and others, not communicated, evaluation rules have been applied instead, and c) the method for the technical evaluation was not communicated prior to the submitting of the tenders.

2. Second plea in law, alleging that the defendant infringed the principles of transparency and equal treatment of tenderers contained in Article 89(1) of the Financial Regulation 1605/2002 (Article 102(1) of the Financial Regulation 966/2012), which invalidate the contested decision because it held the offer of the another tenderer regular, despite fundamental non-compliant elements in breach of the technical requirements of the Tendering Specifications.

⁽¹⁾ Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 248, p. 1)

Action brought on 2 July 2013 — Jordi Nogues v OHIM — Grupo Osborne (BADTORO)

(Case T-350/13)

(2013/C 252/65)

Language in which the application was lodged: Spanish

Parties

Applicant: Jordi Nogues SL (Barcelona, Spain) (represented by: J.R. Fernández Castellanos, M. J. Sanmartín Sanmartín and E. López Pares, lawyers)

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

Other party to the proceedings before the Board of Appeal: Grupo Osborne, SA (El Puerto de Santa María, Spain)

Form of order sought

The applicant claims that the General Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 16 April 2013 in Case R 1446/2012-2;
- order OHIM to bear its own costs and to pay the applicant's costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Applicant