

## COURT OF FIRST INSTANCE

### Designation of the Judge replacing the President as the Judge hearing applications for interim measures

(2008/C 171/54)

On 12 June 2008, the Court of First Instance decided to amend the decision of 19 September 2007 in consequence of the resignation of Judge Cooke and, in accordance with Article 106 of the Rules of Procedure, to designate Judge Papasavvas to replace the President of the Court for the purpose of deciding applications for interim measures where the latter is absent or prevented from dealing with them, in respect of the period from 1 July 2008 to 30 June 2009.

### Judgment of the Court of First Instance of 21 May 2008 — Belfass v Council

(Case T-495/04) <sup>(1)</sup>

*(Public procurement — Community tender procedure — Obvious clerical error — Award to the tender offering best value for money — Abnormally low tender — Article 139(1) of Regulation (EC, Euratom) No 2342/2002 — Plea of illegality — Specifications — Admissibility)*

(2008/C 171/55)

Language of the case: French

#### Parties

*Applicant:* Belfass SPRL (Forest, Belgium) (represented by: L. Vogel, lawyer)

*Defendant:* Council of the European Union (represented by: B. Driessen and A. Vitro, Agents)

#### Re:

Application, first, for the annulment of the decision of the Council of the European Union of 13 October 2004 to reject both the tenders submitted by the applicant under tender procedure UCA-033/04 and, secondly, for compensation in respect of the damage allegedly suffered by the applicant by reason of the Council's conduct.

### Operative part of the judgment

1. Annuls the decision of the Council of the European Union of 13 October 2004 to reject the tenders of Belfass SPRL submitted under tender procedure UCA-033/04, in so far as that decision rejected Belfass' offer with respect to Lot No 2;
2. Dismisses the action as to the remainder;
3. Orders each party to bear its own costs.

<sup>(1)</sup> OJ C 57, 5.3.2005.

### Judgment of the Court of First Instance of 22 May 2008 — NewSoft Technology v OHIM — Soft (Presto! BizCard Reader)

(Case T-205/06) <sup>(1)</sup>

*(Community trade mark — Invalidity proceedings — Community word mark Presto! BizCard Reader — Earlier national figurative marks Presto — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) and Article 52(1)(a) of Regulation (EC) No 40/94)*

(2008/C 171/56)

Language of the case: German

#### Parties

*Applicant:* NewSoft Technology Corp. (Taipei, Taiwan) (represented by: M. Dirksen-Schwanenland, U. von Sothen and M. Di Stefano, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent)

*Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance:* Soft, SA (Madrid, Spain) (represented by: A. Velázquez Ibáñez and P. Merino Baylos, lawyers)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 19 May 2006 (Case R 601/2005-2) relating to invalidity proceedings between Soft, SA and NewSoft Technology Corp.

**Operative part of the judgment**

1. *The action is dismissed.*
2. *NewSoft Technology Corp. is ordered to pay the costs.*

(<sup>1</sup>) OJ C 237, 30.9.2006.

**Judgment of the Court of First Instance of 22 May 2008 — Ott and Others v Commission**

(Case T-250/06 P) (<sup>1</sup>)

*(Appeal — Cross-appeal — Admissibility — Civil Service — Officials — Promotion — Promotion for 2004 — Allocation of promotion points — General Implementing Provisions of Article 45 of the Staff Regulations — Plea of illegality — Substitution of grounds — Appeal, in part, manifestly inadmissible and, in part, manifestly unfounded — Dispute capable of being decided — Dismissal of the action)*

(2008/C 171/57)

Language of the case: French

**Parties**

*Applicants:* Martial Ott (Oberanven, Luxembourg); Fernando Lopez Tola (Luxembourg, Luxembourg); and Francis Weiler (Itzig, Luxembourg) (represented by: F. Frabetti, lawyer)

*Defendant:* Commission of the European Communities (represented by: C. Berardis-Kayser and D. Martin, agents)

**Re:**

Appeal against the order of the Civil Service Tribunal of the European Union (Second Chamber) of 30 June 2006 *Ott and Others v Commission* (Case F-87/05, not yet published in the ECR) seeking the annulment of that order.

**Operative part of the judgment**

*The Court:*

1. *The order of the Civil Service Tribunal (Second Chamber) of 30 June 2006 Ott and Others v Commission is annulled in so far as it dismissed the action brought by Mr Francis Weiler;*
2. *For the rest, the appeal is dismissed;*
3. *The cross-appeal is dismissed;*
4. *The action brought before the Civil Service Tribunal as Case F-87/05 is dismissed in so far as it was brought by Mr Francis Weiler;*
5. *Mr Martial Ott, Mr Fernando Lopez Tola and Mr Francis Weiler shall bear their own costs in relation to the present instance and four fifths of the costs incurred by the Commission. The Commission shall bear one fifth of its own costs in relation to the present instance;*
6. *Mr Francis Weiler and the Commission shall bear their own costs in relation to the proceedings before the Civil Service Tribunal.*

(<sup>1</sup>) OJ C 281 of 18.11.2006.

**Judgment of the Court of First Instance of 22 May 2008 — Radio Regenbogen Hörfunk in Baden v OHIM (RadioCom)**

(Case T-254/06) (<sup>1</sup>)

*(Community trade mark — Application for Community word mark RadioCom — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94)*

(2008/C 171/58)

Language of the case: German

**Parties**

*Applicant:* Radio Regenbogen Hörfunk in Baden Geschäftsführungs-GmbH (Mannheim, Germany) (represented by: W. Göpfert, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider, Agent)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 7 July 2006 (Case R 1266/2005-1) concerning an application for registration of the word mark RadioCom as a Community trade mark.