Re:

Appeal against the judgment of the Court of First Instance (Third Chamber) of 16 May 2007 in Case T-491/04 *Merant* v *OHIM*, by which the Court annulled decision R 542/2002-2 of the Second Board of Appeal of the Office for Harmonisation in the internal Market (Trade Marks and Designs) (OHIM) of 18 October 2004 upholding an action against the opposition decision which partially rejected the application for registration of Community word mark 'FOCUS' for goods and services in classes 3, 6, 7, 8, 9, 14, 15, 16, 21, 24, 25, 26, 28, 29, 32, 33, 34, 35, 36, 38, 39, 41 and 42 in opposition proceedings brought by the proprietor of the national figurative mark 'MICRO FOCUS' for goods and services in classes 9, 16, 41 and 42 — Likelihood of confusion between two marks

Operative part of the order

1. *The appeal is dismissed.*

2. *Focus Magazin Verlag GmbH is ordered to pay the costs.*

([1]) OJ C 79, 29.3.2008.

Order of the Court (Seventh Chamber) of 5 May 2008 (reference for a preliminary ruling from the Consiglio di Stato (Italy)) — Hospital Consulting Srl, ATI HC, Kodak SpA, Tecnologie Sanitarie SpA v Esaote SpA, ATI, Ital Tbs, Telematic & Biomedical Service SpA, Draeger Medica Italia SpA, Officina Biomedica Divisione Servizi SpA

(Case C-386/07) ([1])

(Rules of procedure — Articles 92(1) and 104(3) — Community competition rules — National rules concerning lawyers' fees — Setting of professional scales of charges — Partial inadmissibility — Answers to questions which may be deduced from the case-law of the Court)

(2008/C 209/23)

Language of the case: Italian

Referring court

Consiglio di Stato

Parties

Applicants: Hospital Consulting Srl, ATI HC, Kodak SpA, Tecnologie Sanitarie SpA

Defendants: Esaote SpA, ATI, Ital Tbs Telematic & Biomedical Service SpA, Draeger Medica Italia SpA, Officina Biomedica Divisione Servizi SpA

Intervener: Azienda Sanitaria locale ULSS No 15 (Alta Padovana, Regione Veneto, Italy)

Re:

Reference for a preliminary ruling — Consiglio di Stato — Interpretation of Articles 10 and 81(1) EC and Directive 98/5/EC of the European Parliament and of the Council of 16 February 1998 to facilitate practice of the profession of lawyer on a permanent basis in a Member State other than that in which the qualification was obtained (OJ 1998 L 77, p. 36) — Fixing by a national professional organisation of mandatory tariffs for lawyers' services subject to ministerial approval — National rules prohibiting judges in decisions on costs from derogating from the set minimum fees

Operative part of the order

1. *Articles 10 EC and 81 EC do not preclude a national law which in principle prohibits derogation from minimum fees approved by ministerial decree, on the basis of a draft drawn up by a professional body of members of the Bar such as the Consiglia nazionale forense, and which also prohibits the judge, when he decides the amount of costs that the unsuccessful party must pay to the other party, from derogating from those minimum fees.*

2. *The third question referred by the Consiglio di Stato by decision of 13 January 2006 is clearly inadmissible.*

([1]) OJ C 283, 24.11.2007.

Order of the Court (Seventh Chamber) of 21 May 2008 (reference for a preliminary ruling from the Najvyšší súd Slovenskej republiky — Slovak Republic) — Karol Mihal v Daňový úrad Košice V

(Case C-456/07) ([1])

(Article 104(3), first subparagraph, of the Rules of Procedure — Sixth VAT Directive — Taxable persons — Article 4(5), first subparagraph — Bodies governed by public law — Bailiffs — Natural and legal persons)

(2008/C 209/24)

Language of the case: Slovak

Referring court

Najvyšší súd Slovenskej republiky

([1]) OJ C 315, 22.12.2007.

Parties

Applicant: Karol Mihal

Defendant: Daňový úrad Košice V

Re:

Reference for a preliminary ruling — Najvyšší súd Slovenskej republiky — Interpretation of the first subparagraph of Article 4(5) of Directive 77/388/EEC: Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (OJ 1977 L 145, p. 1) — Treatment of a body governed by public law as a non-taxable person in respect of activities or operations engaged in as a public authority — Inclusion of bailiffs in the exercise of their public duties — Direct effect

Operative part of the order

An activity exercised by a private individual, such as that of a bailiff, is not exempted from value added tax merely because it consists in engaging in acts falling within the rights and powers of a public authority. Even on the assumption that, in the exercise of his duties, a bailiff does carry out such acts, he does not, under legislation such as that at issue in the main proceedings, exercise his activity in the form of a body governed by public law, not being integrated into the organisation of the public administration, but in the form of an independent economic activity carried out in a self-employed capacity, and, consequently, he is not covered by the exemption provided for in the first subparagraph of Article (5) of Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment.

Order of the Court (Eighth Chamber) of 22 May 2008 (reference for a preliminary ruling from the Hoge Raad der Nederlanden Den Haag (Netherlands)) — M. Ilhan v Staatssecretaris van Financiën

(Case C-42/08) ([1])

(First subparagraph of Article 104(3) of the Rules of Procedure — Freedom to provide services — Articles 49 EC to 55 EC — Motor vehicles — Use in one Member State of a motor vehicle registered and leased in another Member State — Taxation of that vehicle in the first Member State)

(2008/C 209/25)

Language of the case: Dutch

Referring court

Hoge Raad der Nederlanden Den Haag

Parties to the main proceedings

Applicant: M. Ilhan

Defendant: Staatssecretaris van Financiën

Re:

Reference for a preliminary ruling — Hoge Raad der Nederlanden Den Haag — Interpretation of Articles 49 EC to 55 EC — National rules providing for imposition of a registration tax on first use of a vehicle on the national road network irrespective of the duration of use of that network — Liability to tax of a person established in that Member State who has leased a vehicle which is registered in another Member State and which is intended for use essentially in the first Member State for professional and private purposes for a period of three years

Operative part of the order

Articles 49 EC to 55 EC preclude the application of national rules, such as those at issue in the main proceedings, by virtue of which a person, residing or established in a Member State, who uses — primarily in that Member State — a motor vehicle registered and leased in another Member State, must, on first use of that vehicle on the road network of the first Member State, pay a tax which is calculated without taking into account the duration of the leasing agreement for that vehicle or the length of time that vehicle will be used on that road network.

([1]) OJ C 92, 12.4.2008.

Appeal brought on 3 April 2008 by Japan Tobacco, Inc. against the judgment delivered on 30 January 2008 by the Court of First Instance (Fifth Chamber) in Case T-128/06, Japan Tobacco, Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) — Torrefacção Camelo

(Case C-136/08 P)

(2008/C 209/26)

Language of the case: French

Parties

Appellant: Japan Tobacco, Inc. (represented by: A. Ortiz López, abogada, S. Ferrandis González, abogado and E. Ochoa Santamaría, abogada)