

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Botis, acting as Agent)

Re:

Action against the decision of the Second Board of Appeal of OHIM of 3 September 2007 (Case R 670/2007-2) relating to the registration of the word sign NEW LOOK as a Community trade mark

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders New Look Ltd to pay the costs.

(¹) OJ C 37, 9.2.2008.

Judgment of the Court of First Instance of 4 December 2008 — People's Mojahedin Organization of Iran v Council

(Case T-284/08) (¹)

(Common foreign and security policy — Restrictive measures directed against certain persons and entities with a view to combating terrorism — Freezing of funds — Actions for annulment — Rights of the defence — Judicial review)

(2009/C 19/55)

Language of the case: English

Parties

Applicant: People's Mojahedin Organization of Iran (Auvers-sur-Oise, France) (represented by: initially, J.-P. Spitzer, lawyer, and D. Vaughan QC, subsequently by J.-P. Spitzer, D. Vaughan QC and M.E. Demetriou, Barrister)

Defendant: Council of the European Union (represented by: initially, G.J. Van Hegleson, M. Bishop and E. Finnegan, subsequently by M. Bishop and E. Finnegan, Agents)

Interveners in support of the defendant: French Republic (represented by: G. de Bergues and A.L. During, Agents); and Commission of the European Communities (represented by: P. Aalto and S. Boelaert, Agents)

Re:

Application for annulment of Council Decision 2008/583/EC of 15 July 2008 implementing Article 2(3) of Regulation (EC) No 2580/2001 on specific restrictive measures directed against

certain persons and entities with a view to combating terrorism and repealing Decision 2007/868/EC (OJ 2008 L 188, p. 21), so far as it concerns the applicant.

Operative part of the judgment

The Court:

1. Annuls Council Decision 2008/583/EC of 15 July 2008 implementing Article 2(3) of Regulation No 2580/2001 on specific restrictive measures directed against certain persons and entities with a view to combating terrorism and repealing Decision 2007/868/EC, in so far as it concerns the People's Mojahedin Organization of Iran.
2. Orders the Council to bear, in addition to its own costs, the costs of the People's Mojahedin Organization of Iran.
3. Orders the French Republic and the Commission to pay their own costs.

(¹) OJ C 236, 13.9.2008.

Order of the Court of First Instance of 27 October 2008 — S.C. Gerovital Cosmetics v OHIM — S.C. Farmec (GEROVITAL H3 Prof. Dr. A. Aslan)

(Case T-163/07) (¹)

(Community trade mark — Invalidity proceedings — Withdrawal of the application for a declaration of invalidity — No need to adjudicate)

(2009/C 19/56)

Language of the case: English

Parties

Applicant: S.C. Gerovital Cosmetics S.A. (Ilfov County, Romania) (represented by: D. Boștină, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the Court of First Instance: S.C. Farmec S.A. (Cluj Napoca, Romania) (represented by: G. Turcu and M. Rosu, lawyers)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 27 February 2007 (Case R 271/2006-2) relating to invalidity proceedings between S.C. Farmec S.A. and S.C. Gerovital Cosmetics S.A.

Operative part of the order

1. *There is no longer any need to adjudicate on the present action.*
2. *S.C. Gerovital Cosmetics S.A. and S.C. Farmec S.A. shall each bear their own costs and half of those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).*

⁽¹⁾ OJ C 183, 4.8.2007.

Action brought on 6 October 2008 — Evropaiki Dynamiki v BEI**(Case T-461/08)**

(2009/C 19/57)

*Language of the case: English***Parties**

Applicant: Evropaiki Dynamiki — Proigmena Systimata Tilepikoionion Pliroforikis kai Tilematikis AE (Athènes, Greece) (represented by: N. Korogiannakis and P. Katsimani, lawyers)

Defendant: European Investment Bank

Form of order sought

- Annul the decision of the European Investment Bank to evaluate the applicant's bid as not successful and award the contract to the successful contractor;
- Order the European Investment Bank to pay the applicant's damages suffered on account of the tendering procedure in question for an amount of EUR 1 940 000,00;
- Order the European Investment Bank to pay the applicant's legal and other costs and expenses incurred in connection with this application, even if the current application is rejected.

Pleas in law and main arguments

By means of its application pursuant to Articles 230 EC and 235 EC, the applicant seeks, on one hand, the annulment of the decision of the European Investment Bank of 26 July 2008 to reject the bid of the applicant filed in response to the open Call for Tenders 'EIB-Assistance in the Maintenance Support and Development of the loans front Office system (SERAPIS) at the European Investment Bank' (OJ 2007/S 176-215155), and on the other hand, compensation for damages.

The applicant claims that the outcome of the tender has not been communicated to it and that it came only incidentally to its knowledge that a contract award notice had been published in the Official Journal ⁽¹⁾ of 26 July 2008. The applicant argues that the contested decision was taken by the defendant in violation of the principles of transparency and of equal treatment, and of the relevant provisions of the EIB's Guide for Procurement and the EC law on public procurement. It is submitted moreover that by not notifying the applicant of its award decision, by failing to provide sufficient justification of its decision to award the contract to another tenderer, by setting criteria that result in unequal treatment, by mixing selection and award criteria, by using a discriminatory evaluation formula of a ratio 75 %/25 %, the defendant allegedly failed to ensure undistorted competition through repeated infringements of the obligation of transparency and equal treatment.

The applicant furthermore claims that should the Court find that the defendant infringed the community law of public procurement and/or principles of legal transparency and of equal treatment, the applicant requests monetary compensation equal to 50 % of EUR 3 880 000,00 (EUR 1 940 000,00) from EIB, corresponding to the estimated gross profit from the aforementioned public procurement procedure, should the contract have been awarded to the applicant.

The applicant further requests the Court to condemn the defendant to pay the applicant's legal costs even if the Court rejects the application, in accordance with Article 87(3)(b) of the Rules of Procedure of the Court of First Instance, since it considers that it was the defendant's deficient evaluation of the applicant's tender, as well as the failure to state reasons and inform the applicant timely on the relative merits of the successful tenderer that forced the applicant to seek legal redress before this Court.

⁽¹⁾ OJ 2008/S 144-192307.

Action brought on 11 November 2008 — Giordano Enterprises v OHIM — José Dias Magalhães & Filhos (GIORDANO)**(Case T-483/08)**

(2009/C 19/58)

*Language in which the application was lodged: English***Parties**

Applicant: Giordano Enterprises Ltd (Jalan Merdeka, Malaysia) (represented by: M. Nentwig, lawyer)