

3. *Orders the French Republic, the Republic of Austria, the Republic of Poland, the Kingdom of the Netherlands, the European Parliament, the Hellenic Republic and the United Kingdom of Great Britain and Northern Ireland to bear their own costs.*

(¹) OJ C 294, 2.12.2006.

**Judgment of the General Court of 11 May 2010 —
PC-Ware Information Technologies v Commission**

(Case T-121/08) (¹)

(Public supply contracts — Community tendering procedure — Acquisition of software products and licences — Rejection of a tender — Abnormally low tender — Obligation to state reasons)

(2010/C 179/55)

Language of the case: Dutch

Parties

Applicant: PC-Ware Information Technologies BV (Amsterdam, Netherlands) (represented by: L. Devillé and B. Maerevoet, lawyers)

Defendant: European Commission (represented by: E. Manhaeve, Agent, and P. Wytinck, lawyer)

Re:

APPLICATION, principally, for annulment of the Commission's decision of 11 January 2008 rejecting the tender submitted by the applicant in public procurement procedure DIGIT/R2/PO/2007/022 and, in the alternative, for compensation for the loss allegedly suffered by the applicant as a result of the Commission's conduct.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders PC-Ware Information Technologies BV to pay the costs.*

(¹) OJ C 116, 9.5.2008.

Judgment of the General Court of 12 May 2010 — Beifa Group v OHIM — Schwan-Stabilo Schwanhäüßer (Instrument for writing)

(Case T-148/08) (¹)

(Community design — Invalidity proceedings — Registered Community design representing an instrument for writing — Earlier national figurative mark — Ground for invalidity — Use in the Community design of an earlier sign the holder of which has the right to prohibit such use — Article 25(1)(e) of Regulation (EC) No 6/2002 — Request for proof of genuine use of the earlier mark made for the first time before the Board of Appeal)

(2010/C 179/56)

Language of the case: English

Parties

Applicant: Beifa Group Co. Ltd (Ningbo, Zhejiang, China) (represented by: R. Davis, Barrister, and N. Cordell, Solicitor)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: A. Folliard Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Schwan-Stabilo Schwanhäüßer GmbH & Co. KG (Heroldsberg, Germany) (represented by: U. Blumenröder and H. Gauß, lawyers)

Re:

Action brought against the decision of the Third Board of Appeal of OHIM of 31 January 2008 (Case R 1352/2006-3) relating to invalidity proceedings between Schwan-Stabilo Schwanhäüßer GmbH & Co. KG and Ningo Beifa Group Co., Ltd in respect of a Community design.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 31 January 2008 (Case R 1352/2006-3);*
2. *Dismisses the action as to the remainder;*

3. Orders OHIM to bear its own costs and to pay those incurred by Beifa Group Co. Ltd, and orders Schwan Stabilo Schwanhäußler GmbH & Co. KG to bear its own costs.

(¹) OJ C 142, 7.6.2008.

**Order of the General Court of 19 May 2010 —
Arbeitsgemeinschaft Golden Toast v OHIM (Golden Toast)**

(Case T-163/08) (¹)

(Community trade mark — Application for the Community word mark Golden Toast — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94 (now Article 7(1)(c) of Regulation No 207/2009))

(2010/C 179/57)

Language of the case: German

Parties

Applicant: Arbeitsgemeinschaft Golden Toast e.V. (Düsseldorf, Germany) (represented by: A. Späth and G. Hasselblatt, lawyers)

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

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 31 January 2008 (Case R 761/2007-1) relating to an application to register the word sign Golden Toast as a Community trade mark.

Operative part of the order

The Court

1. Dismisses the action;
2. Orders the Arbeitsgemeinschaft Golden Toast e.V. to pay the costs.

(¹) OJ C 171, 5.7.2008.

Judgment of the General Court of 19 May 2010 — Tay Za v Council

(Case T-181/08) (¹)

(Common foreign and security policy — Restrictive measures against Myanmar — Freezing of funds — Action for annulment — Joint legal basis of Articles 60 EC and 301 EC — Obligation to state the reasons on which a decision is based — Rights of the defence — Right to effective judicial review — Right to respect for property — Proportionality)

(2010/C 179/58)

Language of the case: English

Parties

Applicant: Pye Phyo Tay Za (Yangon, Myanmar) (represented by: D. Anderson QC, M. Lester, Barrister, and G. Martin, Solicitor)

Defendant: Council of the European Union (represented by: M. Bishop and E. Finnegan, Agents)

Interveners in support of the defendant: United Kingdom of Great Britain and Northern Ireland (represented initially by S. Behzadi-Spencer, acting as Agent, and subsequently by I. Rao, acting as Agent, and by D. Beard, Barrister); and European Commission (represented by: A. Bordes, P. Aalto and S. Boelaert, Agents)

Re:

Application for annulment of Council Regulation (EC) No 194/2008 of 25 February 2008 renewing and strengthening the restrictive measures in respect of Burma/Myanmar and repealing Regulation (EC) No 817/2006 (OJ 2008 L 66, p. 1), in so far as the applicant's name appears on the list of persons, entities or bodies to which the regulation applies.

Operative part of the judgment

The Court:

1. Dismisses the application.
2. Orders Pye Phyo Tay Za to bear his own costs and to pay those incurred by the Council of the European Union.