

*Decision of the Opposition Division:* Rejection of the opposition in its entirety

*Decision of the Board of Appeal:* Dismissal of the appeal

*Pleas in law:* Infringement of Article 8 of Council Regulation No 40/94 as the trade marks concerned are visually and phonetically similar and the goods and services covered by the trade marks concerned are identical; infringement of Article 8 of Council Regulation No 40/94 as the use of the trade mark applied for is likely to cause confusion.

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**Action brought on 18 June 2008 — Batchelor v Commission**

**(Case T-250/08)**

(2008/C 209/113)

*Language of the case: English*

**Parties**

*Applicant:* Edward William Batchelor (Brussels, Belgium) (represented by: F. Young, Solicitor, A. Barav, Barrister, and D. Reymond, lawyer)

*Defendant:* Commission of the European Communities

**Form of order sought**

- Annul the implied negative decision deemed, pursuant to Article 8(3) of the Access Regulation, to have been made by the European Commission on 9 April 2008 and the express negative decision made by the Commission on 16 May 2008, relating to a request for access to documents presented pursuant to Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43);
- Order the Commission to pay its own costs and the costs incurred by the applicant in relation to these proceedings.

**Pleas in law and main arguments**

This application for annulment under Article 230 EC is directed against the Commission's implied decision of 9 April 2008 and its express decision of 16 May 2008, made pursuant to Regulation (EC) No 1049/2001<sup>(1)</sup> ('the Access Regulation'), by which the Commission rejected the applicant's request for access to documents relating to the notification of measures taken under Article 3a(1) of Council Directive 89/552/EEC on the coordination of certain provisions laid down by law, regulation

or administrative action in Member States concerning the pursuit of television broadcasting activities.

The applicant claims that the contested decision violates Article 253 EC and Articles 7(1) and 8(1) of the Access Regulation and thus is vitiated by an infringement of an essential procedural requirement, namely, by failing to give sufficient reasons for denial of access to the documents requested. The applicant further submits that, in denying access to the documents requested, the contested decision violates Article 255 EC and Articles 1(a), 2(1) and (3), 4(1) to (6) of the Access Regulation. In particular, the applicant contends that the contested decision infringes the Access Regulation in holding that the exceptions under the second paragraph of Article 4(3) and of the first and third indents of Article 4(2) thereof applied and, finally, that the contested decision infringes Article 4(6) of the Access Regulation in failing to provide reasons for the refusal of partial access to the documents requested.

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<sup>(1)</sup> Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

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**Action brought on 26 June 2008 — Tipik v Commission**

**(Case T-252/08)**

(2008/C 209/114)

*Language of the case: French*

**Parties**

*Applicant:* Tipik Communication Agency SA (Brussels, Belgium) (represented by: E. Gillet, L. Levi and C. Dubois, lawyers)

*Defendant:* Commission of the European Communities

**Form of order sought**

- Annul the decision of the Commission, the date of which is unknown, by which it was decided to reject the tender submitted by the applicant in the award procedure for the public service contract concerning, inter alia, the EUROPA Internet site (PO/2007-31/C2);
- Annul the decision of the Commission, the date of which is unknown, by which it was decided to award that public contract to the consortium led by the company *Européenne Service Network*;