

In support of its application, the applicant puts forward three pleas in law.

First, it claims that the Commission erred in law when deciding that the Danish government did not incur in a manifest error of appreciation when considering that the Copenhagen-Ystad route constituted a public service or service of general economic interest.

Second, the applicant submits that the Commission erred in law when it did not raise doubts with regard to the qualification of the Copenhagen-Ystad route as public service obligation or a service of general economic interest or a public service in view of the information in its possession. It argues that the Commission should not have accepted the arguments submitted by the Danish government without further debate or examination.

Third, the applicant contends that the Commission failed to provide adequate reasoning to its decision in violation of its obligation under Article 253 EC as the only reasoning provided in the decision consists in repeating the arguments of the Danish government.

<sup>(1)</sup> OJ 2008 C 309, p. 14

**Action brought on 2 March 2009 — Strategi Group v OHIM — Reed Business Information (STRATEGI)**

(Case T-92/09)

(2009/C 113/78)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Strategi Group Ltd (Manchester, United Kingdom) (represented by: N. Saunders, Barrister)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal:* Reed Business Information (Issy-Les-Moulineaux, France)

**Form of order sought**

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 18 December 2008 in case R 1581/2007-2 and remit the application to OHIM to allow it to proceed; and
- Order OHIM (and any intervening parties) to pay the costs of these proceedings and those of the appeal proceedings before the Board of Appeal of OHIM.

**Pleas in law and main arguments**

*Applicant for the Community trade mark:* The applicant

*Community trade mark concerned:* The word mark 'STRATEGI', for services in class 35

*Proprietor of the mark or sign cited in the opposition proceedings:* The other party to the proceedings before the Board of Appeal

*Mark or sign cited:* French trade mark registration No 1 240 001 of the word mark 'Stratégies' for goods and services in classes 9, 16, 28, 35, 41 and 42

*Decision of the Opposition Division:* Rejected the opposition

*Decision of the Board of Appeal:* Annulled the decision of the Opposition Division

*Pleas in law:* Infringement of Article 43 of Council Regulation 40/94 as the Board of Appeal erred in particular by ruling in the circumstances of this case that use of a trade mark as the title of a magazine may constitute use of that trade mark for services offered in that publication, and by failing to set out the proper evidential requirements needed to prove genuine use in such circumstances and/or by failing to give appropriate consideration to the evidence filed on the basis of the correct principles; Further, or in the alternative, infringement of Rule 22 of Commission Regulation No 2868/95 <sup>(1)</sup> as the Board of Appeal failed to properly apply the provision of the said legal provision to the circumstances of the case, since it failed to provide guidance on the evidence required to establish proof of use and/or wrongly found that the evidence filed by the opponent was inadequate to establish use of the trade mark for the services relied upon.

<sup>(1)</sup> Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

**Action brought on 11 March 2009 — von Oppeln-Bronikowski and von Oppeln-Bronikowski v OHIM — Pomodoro Clothing (promodoro)**

(Case T-103/09)

(2009/C 113/79)

*Language in which the application was lodged: English*

**Parties**

*Applicants:* Anna Elisabeth Richarda von Oppeln-Bronikowski and Baron Zebulon Baptiste von Oppeln-Bronikowski (Düsseldorf, Germany) (represented by: V. Knies, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal:* Pomodoro Clothing Company Ltd. (London, United Kingdom)

**Form of order sought**

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 7 January 2009 in case R 325/2008-1