

**Operative part of the order**

1. *The appeal is dismissed.*
2. *Deutsche Bahn AG is ordered to pay the costs.*

(<sup>1</sup>) OJ C 130, 30.4.2011.

**Order of the Court (Eighth Chamber) of 29 November 2011 — Tresplain Investments Ltd v Office for Harmonisation in the Internal Market (Trade Marks and Designs), Hoo Hing Holdings Ltd**

(Case C-76/11 P) (<sup>1</sup>)

*(Appeals — Community trade mark — Regulation (EC) No 40/94 — Articles 8(4) and 52(1)(c) — Community figurative mark Golden Elephant Brand — Application for a declaration of invalidity based on a non-registered national figurative mark GOLDEN ELEPHANT — Reference to the national law governing the earlier trade mark — Common-law action for passing-off)*

(2012/C 109/06)

Language of the case: English

**Parties**

*Appellant:* Tresplain Investments Ltd. (represented by: B. Brandreth, Barrister)

*Other parties to the proceedings:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: D. Botis, acting as Agent) Hoo Hing Holdings Ltd (represented by: M. Edenborough QC)

**Re:**

Appeal against the judgment of the General Court (Eighth Chamber) of 9 December 2010 in Case T-303/08 *Tresplain Investments Ltd v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)*, by which the Court dismissed the action brought by the proprietor of the Community figurative mark 'Golden Elephant Brand', for goods in class 30, against Decision R 889/2007-1 of the First Board of Appeal of the Office for Harmonisation in the Internal Market (OHIM) of 7 May 2008, annulling the decision of the Cancellation Division which had rejected an application for a declaration of invalidity of that mark, brought by the proprietor of the unregistered national figurative mark 'GOLDEN ELEPHANT', for goods in class 30 — Interpretation and application of Article 8(4) of Regulation (EC) No 40/94 (now Article 8(4) of Regulation (EC) No 207/2009)

**Operative part of the order**

1. *Dismisses the appeal.*
2. *Orders Tresplain Investments Ltd to pay the costs.*

(<sup>1</sup>) OJ C 120, 16.4.2011.

**Order of the Court (Seventh Chamber) of 19 January 2012 (reference for a preliminary ruling from the Upper Tribunal (Tax and Chancery Chamber) — United Kingdom) — Purple Parking Ltd, Airparks Services Ltd v Commissioners for Her Majesty's Revenue and Customs**

(Case C-117/11) (<sup>1</sup>)

*(First subparagraph of Article 104(3) of the Rules of Procedure — Taxation — VAT — Sixth Directive — Article 28(2)(a) — Article 28(3)(b) — Exemption of certain transport services — Transaction combining car parking services and the transport of travellers between the car park and an airport — Existence of two separate supplies of services or of a single supply — Principle of fiscal neutrality)*

(2012/C 109/07)

Language of the case: English

**Referring court**

Upper Tribunal (Tax and Chancery Chamber) (United Kingdom)

**Parties to the main proceedings**

*Applicants:* Purple Parking Ltd, Airparks Services Ltd

*Defendant:* Commissioners for Her Majesty's Revenue and Customs

**Re:**

Reference for a preliminary ruling — Upper Tribunal (Tax and Chancery Chamber) — Interpretation 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) — Right of the Member States to maintain exemptions with refund of the tax paid at the preceding stage — Maintenance, under national legislation, of an exemption with refund of the tax paid in respect of the supply of certain transport services — Operator supplying, to air travellers, a car parking service together with transport between the car park and the airport — Transaction to be regarded, for VAT purposes, as a single supply or several distinct supplies?

**Operative part of the order**

*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, as amended by Council Directive 92/111/EEC of 14 December 1992, must be interpreted as meaning that, for the purpose of determining the rate of value added tax applicable, services for the parking of a vehicle in an 'off-airport' car park and for the transport of the passengers of that vehicle between that car park and*

*the airport terminal concerned must, in circumstances such as those at issue in the main proceedings, be regarded as a single complex supply of services in which the parking service is predominant.*

<sup>(1)</sup> OJ C 145, 14.5.2011.

**Order of the Court of 29 November 2011 — Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE v European Commission**

(Case C-235/11 P) <sup>(1)</sup>

*(Appeal — Article 119 of the Rules of Procedure — Public contracts awarded by the European Union institutions on their own behalf — Call for tenders concerning the provision of IT and user support services relating to the Community emissions trading scheme (CITL and CR) — Rejection of tender — Obligation to state the reasons on which the decision is based — Principle of equal treatment — Appeal clearly inadmissible and clearly unfounded)*

(2012/C 109/08)

Language of the case: English

#### Parties

*Appellant:* Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (represented by: N. Korogiannakis and M. Dermizakis, dikigoroí)

*Other party to the proceedings:* European Commission (represented by: D. Calciu, Agent)

#### Re:

Appeal brought against the judgment of the General Court (Eighth Chamber) of 3 March 2011 in Case T-589/08 *Evropaiki Dynamiki v Commission* dismissing an action (i) for annulment of the Commission's decision of 13 October 2008 rejecting the bid submitted by the applicant in the context of Invitation to Tender ENV.C2/FRA/2008/0017 for the conclusion of a framework contract for the provision of IT (information technology) services and user support in connection with the Community emissions trading scheme (Community Independent Transaction Log (CITL) and Community Registry (CR)) (OJ 2008 S 72-096229), and of the decision to award the contract to another tenderer; and (ii) for damages

#### Operative part of the order

1. *The appeal is dismissed.*
2. *Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE shall pay the costs.*

<sup>(1)</sup> OJ C 211, 16.7.2011.

**Order of the Court (Sixth Chamber) of 9 December 2011 (reference for a preliminary ruling from the Tribunal de première instance de Liège — Belgium) — Auditeur du travail v Yangwei SPRL**

(Case C-349/11) <sup>(1)</sup>

*(First subparagraph of Article 104(3) of the Rules of Procedure — Directive 97/81/EC — Administrative obstacles liable to limit the opportunities for part-time work — Obligation to publicise and keep employment contracts and work schedules)*

(2012/C 109/09)

Language of the case: French

#### Referring court

Tribunal de première instance de Liège

#### Parties to the main proceedings

*Applicant:* Auditeur du travail

*Defendant:* Yangwei SPRL

#### Re:

Reference for a preliminary ruling — Tribunal de première instance de Liège — Interpretation of Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC (OJ 1998, L 14, p. 9) — Permissibility of national legislation requiring an employer to draw up documents recording departures from work schedules as well as to keep and publicise the contracts and work schedules of part-time workers — Administrative obstacles liable to limit the opportunities for part-time work

#### Operative part of the order

*Clause 4 of the Framework Agreement annexed to Council Directive 97/81/EC of 15 December 1997 concerning the Framework Agreement on part-time work concluded by UNICE, CEEP and the ETUC must be interpreted as not precluding national legislation which makes employers responsible for the obligations of retention and publication of the contracts and work-schedules of part-time workers if it is established that such legislation does not lead to them being treated less favourably than full-time workers in a similar situation or, if such there is such a difference in treatment, it is established that it is justified on objective grounds and does not go beyond what is necessary to attain the objectives thus pursued. It is for the referring court to perform the necessary factual and legal investigation, particularly with regard to the applicable national law, in order to determine whether that is so in the case before it.*