4. Fourth, the Decision violates Directive No 2001/29/EC [1] on the harmonisation of certain aspects of copyright and related rights in the information society, of fundamental rights protecting property rights, including copyright and of the principles of proportionality and of good administration, insofar as access is granted by providing a copy of the documents.

[1] Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society

Action brought on 22 January 2013 — GRE v OHIM — Villiger Söhne (LIBERTE american blend)

(Case T-30/13)

(2013/C 79/47)

Language in which the application was lodged: German

Parties

Applicant: GRE Grand River Enterprises Deutschland GmbH (Kloster Lehnin, Germany) (represented by: I. Memmler and S. Schulz, lawyers)

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

Other party to the proceedings before the Board of Appeal: Villiger Söhne GmbH (Waldshut-Tiengen, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 15 November 2012 in Case R 731/2012-1;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the figurative mark including the word elements 'LIBERTE american blend' for goods in Class 34 — Community trade mark application No 7 481 252

Proprietor of the mark or sign cited in the opposition proceedings: Villiger Söhne GmbH

Mark or sign cited in opposition: The word mark 'La LIBERTAD' and the figurative mark including the word elements 'La LIBERTAD' for goods in Classes 14 and 34

Decision of the Opposition Division: the opposition was upheld

Decision of the Board of Appeal: the appeal was rejected

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009

Action brought on 23 January 2013 — Meta Group v European Commission

(Case T-34/13)

(2013/C 79/48)

Language of the case: Italian

Parties

Applicant: Meta Group Srl (Rome, Italy) (represented by: A. Bartolini, V. Colcelli and A. Formica, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Note No 1687862 from the Directorate-General for Enterprise and Industry of 11 December 2012;

— annul Financial Audit Report No S12.16817;

and, in so far as necessary, annul the following notes from the European Commission's Directorate-General for Budget Execution (Directorate for General Budget and EDF):

— the note of 12 November 2012 concerning 'Payment by offsetting of debts payable to the Commission', in which the Commission informed the applicant that the debt of EUR 69 061,80 which META Group claimed to be owed to it by the Commission in relation to the Take-it-Up contract (No 245637) had been offset against the corresponding debt owed by META Group as shown by Debit Note No 32412078833;

— Note No 1380282 of 21 November 2012 concerning offsetting of the debt of EUR 16 772,36 which META Group claimed to be owed to it by the Commission in relation to the BCreative contract (No 245599) against the corresponding debt owed by META Group as shown by Debit Note No 32412078833;

— Note No 1380323 of 21 November 2012 concerning offsetting of the debt of EUR 16 772,36 which META Group claimed to be owed to it by the Commission in relation to the BCreative contract against the corresponding equivalent debt owed by META Group;

— Note No 1387638 of 22 November 2012 concerning offsetting of the debt of EUR 220 518,25 which META Group claimed to be owed to it by the Commission in relation to the Take-it-Up contract (No 245637) and the Ecolink+ contract (No 256224) against the debt of EUR 209 108,92 owed by META Group as shown by Debit Note No 32412078833;

and, accordingly, order the Commission to:

— pay to the applicant the sum of EUR 424 787,90, plus default interest;

— pay compensation in respect of the consequential loss suffered by the applicant;

and order the Commission to pay the costs.

Pleas in law and main arguments

The present action concerns the grant agreements concluded between the applicant and the Commission under the 'Competitiveness and Innovation Framework Programme (CIP) (2007-2013)'.

In support of its action, the applicant puts forward six pleas in law.

1. First plea in law, alleging a manifest error in the assessment of the facts, breach of Amendment No 1 to the ECOLINK+ contract of 14 October 2011, infringement of the principle of legitimate expectations, and infringement of the principles of protection of acquired rights, legal certainty and duty of care.

   — On this point, it is maintained that the Commission's conduct involved a breach of the commitments contractually entered into by it with respect to META, with particular reference to acceptance of the method of calculation proposed by the applicant.

2. Second plea in law, alleging a breach of Article 11 of the grant agreements relating to the CIF Programme (BCreative, Take-IT-Up, Ecolink+), infringement of the principle of reasonableness, and a manifest error in the assessment of the facts.

   — On this point, it is maintained that the applicant company has provided evidence that the remuneration of its own associate members is fully in line with market values and with the remuneration received by self-employed parasubordinate workers ('*in-house consultants*') and employees pursuing similar activities. Under national law those minima may be increased by 100 % if the required service is '*particularly important, complex or difficult*' (see Article 6(1) of Ministerial Decree No 169 of 2 September 2010). The employment by META Group of international experts engaged in activities connected with the projects in question on the basis of 'continuous and coordinated contractual relationships' is also perfectly legitimate.

3. Third plea in law, alleging infringement of the principle of proportionality of administrative action and infringement of the principles of sound administration and transparency and the principle that criteria must be determined in advance.

   — It is submitted in this regard that the existence of a multiplicity of criteria which may be used for the purpose of determining the methods of calculating remuneration should have led the administration to adopt the criterion most favourable to private individuals. Once it was realised that there is significant variation among the rates paid on the Italian and European markets for the same services, the appropriate course of conduct for the administration would have been to adopt a solution liable to cause the least detriment possible to the applicant.

4. Fourth plea in law, alleging a manifest error in the assessment of the facts, breach of Amendment No 1 to the ECOLINK+ contract of 14 October 2011 and infringement of the principles of legitimate expectations, good faith, protection of acquired rights, legal certainty and duty of care.

   — It is submitted in this regard that the set-off decisions are unlawful, since the sums indicated as META's outstanding claims concerning the contracts mentioned above are significantly lower than those actually owed. In particular, the Commission, as established by the *final audit report* at present under challenge, when determining the eligible costs relating to associate members, arbitrarily applied a substantially lower hourly rate than the rate proposed by META.

5. Fifth plea in law, alleging infringement of the principle of sound administration and an inadequate statement of reasons.

   — On this point, it is maintained that the set-off decisions lack any statement of reasons regarding either the criteria or the parameters used for calculation. Therefore, given that the final results of the *audit report* were not yet available to META at the time when it was notified of the set-off decisions in question, the Commission ought to have provided clarification in respect of the assessments made on the basis of the decision to use a different method for calculating the eligible costs from the method determined in the contracts.

6. Sixth plea in law, alleging a manifest error in making the calculations to determine the sums owed to the applicant.

— In this regard, it is maintained that the calculations carried out by the Commission for the purposes of the set-off arrangement also appear to be wrong: if the *flat rates* relating to the '*Marie Curie*' Programme are applied, the accounts are inconsistent.

Action brought on 23 January 2013 — Meta Group v European Commission

(Case T-35/13)

(2013/C 79/49)

Language of the case: Italian

Parties

Applicant: Meta Group Srl (Rome, Italy) (represented by: A. Bartolini, V. Colcelli and A. Formica, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should annul the following notes from the European Commission's Directorate-General for Budget Execution (Directorate for General Budget and EDF):

— Note No 1328694 of 12 November 2012 concerning 'Payment by offsetting of debts payable to or by the Commission', in which the Commission informed the applicant that the debt of EUR 69 061,89 which META Group claimed to be owed to it by the Commission in relation to the Take-it-Up contract (No 245637) had been offset against the corresponding debt owed by META Group as shown by Debit Note No 32412078833;

— Note No 1380282 of 21 November 2012 concerning offsetting of the debt of EUR 16 772,36 which META Group claimed to be owed to it by the Commission in relation to the BCreative contract (No 245599) against the corresponding debt owed by META Group as shown by Debit Note No 32412078833;

— Note No 1380323 of 21 November 2012 concerning offsetting of the debt of EUR 16 772,36 which META Group claimed to be owed to it by the Commission in relation to the BCreative contract against the corresponding equivalent debt owed by META Group;

— Note No 1387638 of 22 November 2012 concerning offsetting of the debt of EUR 220 518,25 which META Group claimed to be owed to it by the Commission in relation to the Take-it-Up contract (No 245637) and the Ecolink+ contract (No 256224) against the debt of EUR 209 108,92 owed by META Group as shown by Debit Note No 32412078833;

and, accordingly, order the Commission to:

— pay the applicant the sum of EUR 424 787, plus default interest;

— pay compensation in respect of the consequential loss suffered by the applicant.

Pleas in law and main arguments

The pleas in law and main arguments are similar to those in Case T-34/13.

Action brought on 21 January 2013 — Erreà Sport v OHIM — Facchinelli (ANTONIO BACIONE)

(Case T-36/13)

(2013/C 79/50)

Language in which the application was lodged: Italian

Parties

Applicant: Erreà Sport SpA (Torrile, Italy) (represented by: D. Caneva and G. Fucci, lawyers)

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

Other party to the proceedings before the Board of Appeal: Antonio Facchinelli (Dalang, China)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 24 October 2012 in Case R 1561/2011-1 and, consequently, reject the application for registration published in *Community Trade Marks Bulletin* No 117/2010, lodged by Antonio Facchinelli, in respect of all the goods;

— order that the costs incurred by Erreà Sport S.p.A in the present proceedings be reimbursed.