Pleas in law:

— Infringement of Article 42(2) in conjunction with Article 78(1)(f) of Regulation No 207/2009;

— Infringement of the right to be heard regarding the erroneous assessment of the evidence constituted by the declaration on oath;

— Infringement of the right to be heard regarding the erroneous assessment of the evidence constituted by the extracts from the Internet;

— Infringement of the right to be heard regarding the assessment of the proof of use in its entirety;

— Infringement of the right to be heard regarding the failure to take the proof of use into account;

— Infringement of Article 76(2) of Regulation No 207/2009

Action brought on 1 July 2013 — Orange Business Belgium v Commission

(Case T-349/13)

(2013/C 252/64)

Language of the case: English

Parties

Applicant: Orange Business Belgium SA (Brussels, Belgium) (represented by: B. Schutyser, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul the decision of DG DIGIT of the European Commission, notified to the applicant on 19 April 2013, rejecting the applicant's tender and awarding the contract to another tenderer;

— In the event at the time of the rendering of the judgment the Commission would have already signed the Trans European Services for Telematics between Administrations — new generation ('TESTA-ng') contract, declare that this contract is null and void; and

— Order the defendant to pay the costs of the proceedings, including the expenses for legal counsel incurred by the applicant.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging that the defendant violated the tendering specifications, Article 89(1) and Article 100(1) of the Financial Regulation 1605/2002 [1] (Article 102(1) and Article 113(1) of the Financial Regulation 966/2012) in particular the principles of transparency, equality and non-discrimination because a) some communicated evaluation rules were not applied, b) some communicated evaluation rules were wrong and others, not communicated, evaluation rules have been applied instead, and c) the method for the technical evaluation was not communicated prior to the submitting of the tenders.

2. Second plea in law, alleging that the defendant infringed the principles of transparency and equal treatment of tenderers contained in Article 89(1) of the Financial Regulation 1605/2002 (Article 102(1) of the Financial Regulation 966/2012), which invalidate the contested decision because it held the offer of the another tenderer regular, despite fundamental non-compliant elements in breach of the technical requirements of the Tendering Specifications.

[1] Council Regulation (EC, Euratom) No 1605/2002 of 25 June 2002 on the Financial Regulation applicable to the general budget of the European Communities (OJ 2002 L 248, p. 1)

Action brought on 2 July 2013 — Jordi Nogues v OHIM — Grupo Osborne (BADTORO)

(Case T-350/13)

(2013/C 252/65)

Language in which the application was lodged: Spanish

Parties

Applicant: Jordi Nogues SL (Barcelona, Spain) (represented by: J.R. Fernández Castellanos, M. J. Sanmartín Sanmartín and E. López Pares, lawyers)

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

Other party to the proceedings before the Board of Appeal: Grupo Osborne, SA (El Puerto de Santa María, Spain)

Form of order sought

The applicant claims that the General Court should:

— annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 16 April 2013 in Case R 1446/2012-2;

— order OHIM to bear its own costs and to pay the applicant's costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Applicant

Community trade mark concerned: Figurative mark with word element 'BADTORO' for goods and services in Classes 25, 34 and 35 — Community trade mark application No 9 565 581

Proprietor of the mark or sign cited in the opposition proceedings: Grupo Osborne, SA

Mark or sign cited in opposition: National figurative mark with word element 'TORO', national word mark 'EL TORO' and Community word mark 'TORO', for goods and services in Classes 25, 34, 35

Decision of the Opposition Division: Opposition upheld

Decision of the Board of Appeal: Appeal dismissed

Pleas in law:

— Infringement of Article 8(1)(b) of Regulation No 207/2009

— Incorrect departure from the general principle of comparison as a whole, without valid reason

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Action brought on 2 July 2013 — Crown Equipment (Suzhou) and Crown Gabelstapler v Council

(Case T-351/13)

(2013/C 252/66)

Language of the case: English

Parties

Applicants: Crown Equipment (Suzhou) Co. Ltd (Suzhou, China) and Crown Gabelstapler GmbH & Co. KG (Roding, Germany) (represented by: K. Neuhaus, H.-J. Freund and B. Ecker, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicants claim that the Court should:

— Declare the application admissible;

— Annul Council Implementing Regulation (EU) No 372/2013 ([1]) of 22 April 2013 amending Implementing Regulation (EU) No 1008/2011 of 10 October 2011 as far as it concerns the applicants; and

— Order the defendant to bear its own costs as well as those of the applicants.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging infringement of Art. 2 (7) of Council Regulation (EC) No 1225/2009 ([2]) or Art. 296 (2) TFEU in so far as the Council made manifest errors of assessment or infringed its obligation to state reasons when it selected Brazil as an analogue country for the purposes of determining the normal value. The Council wrongly found that or failed to reason why there is sufficient competition on the Brazilian market, in particular with regard to the degree of competition between domestic producers and with regard to the degree of competition exerted by imports.

2. Second plea in law, alleging infringement of Art. 2 (7) of Council Regulation (EC) No 1225/2009 or Art. 296 (2) TFEU in so far as the Council made a manifest error of assessment or infringed its obligation to state reasons when rejecting a claim for an adjustment to the normal value to account for the effect of a 14 % import duty on the product concerned in the analogue country Brazil.

3. Third plea in law, alleging an infringement of Art. 9 (4) of Council Regulation (EC) No 1225/2009 in so far as the Council made a manifest error of assessment by, when applying the 'lesser duty rule', comparing the dumping margin established in the contested regulation with the injury elimination level established in the original investigation in 2005 instead of establishing a new injury elimination level.

([1]) Council Implementing Regulation (EU) No 372/2013 of 22 April 2013 amending Implementing Regulation (EU) No 1008/2011 imposing a definitive anti-dumping duty on imports of hand pallet trucks and their essential parts originating in the People's Republic of China following a partial interim review pursuant to Article 11(3) of Regulation (EC) No 1225/2009 (OJ 2013 L 112, p. 1)

([2]) Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51)

Appeal brought on 2 July 2013 by BX against the judgment of the Civil Service Tribunal of 24 April 2013 in Case F-88/11 BX v Commission

(Case T-352/13 P)

(2013/C 252/67)

Language of the case: English

Parties

Appellant: BX (Washington, United States) (represented by: R. Rata, lawyer)

Other party to the proceedings: European Commission