

Form of order sought

- annulment of Commission Decision C (2005) 4683 of 25 November 2005;
- declaration under Article 241 EC that points B.12 and C.2 of Datasheet No 19 annexed to Commission Decision 97/322/EC of 23 April 1997 are unlawful and inapplicable;
- order that the Commission pay the costs.

Pleas in law and main arguments

The applicant submits that the contested decision should be annulled on grounds similar to those put forward in Case T-418/05 *Investire Partecipazioni v Commission* (OJ C 22 of 28.1.06, p. 21).

Action brought on 27 March 2006 — ESOTRADE v OHIM

(Case T-103/06)

(2006/C 121/30)

Language in which the application was lodged: Spanish

Parties

Applicant: ESOTRADE, S.A. (Madrid, Spain) (represented by Jaime de Rivera Lamo de Espinosa, lawyer)

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

Other party to the proceedings before the Board of Appeal: Antonio Segura Sánchez

Form of order sought

- Annul the Decision of the Second Board of Appeal of OHIM of 10 January 2006 in Case R 217/2004-2 in the dispute between the marks YOKANA and YOKONO;
- declare the Community trade mark No 1 600 659, 'YOKANA' eligible for registration;
- order the defendant to pay the costs of both the present and the earlier proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: Figurative mark 'YOKANA' (application No 1 600 659) for goods in Classes 14, 18 and 25

Proprietor of the mark or sign cited in the opposition proceedings: Antonio Segura Sánchez

Mark or sign cited in opposition: Figurative Community and Spanish trade marks 'YOKONO' for goods in Classes 25 (No 1 099 356) and 18, 25 and 39 (No 336 750)

Decision of the Opposition Division: Opposition upheld in part and refusal of the application for registration for certain goods in Classes 18 and 25

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Incorrect application of Article 8(1)(b) of Regulation No 40/94 on the Community trade mark

Action brought on 7 April 2006 — InterVideo v OHIM

(Case T-105/06)

(2006/C 121/31)

Language of the case: English

Parties

Applicant: InterVideo, Inc. (California, USA) (represented by: K. Manhaeve, lawyer)

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

Form of order sought

- Annul the decision of the Board of Appeal of 31 January 2006;
- order the defendant to pay all the costs.

Pleas in law and main arguments

Community trade mark concerned: The figurative mark 'WinDVD Creator' for goods in class 9 — application No 4 106 936

Decision of the examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Violation of Articles 4 and 7(1)(b) and (c) of Council Regulation No 40/94 as the Board of Appeal has defined the relevant public incorrectly. The relevant public is, according to the applicant, the average consumer and not PC users familiar with specific computer language.