

**Action brought on 30 July 2007 — Caisse Nationale des
Caisses d'Épargne et de Prévoyance v Commission**

(Case T-289/07)

(2007/C 235/32)

Language of the case: French

Parties

Applicant: Caisse Nationale des Caisses d'Épargne et de Prévoyance (CNCEP) (Paris, France) (represented by: F. Sureau, D. Théophile and É. Renaudeau, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Annulment of Commission Decision C(2007) 2110 final of 10 May 2007 pursuant to Article 86(3) of the EC Treaty on the special rights granted to La Banque Postale, Caisses d'Épargne and Crédit Mutuel for the distribution of the *livret A* and *livret bleu*;
- Order the Commission to pay the costs.

Pleas in law and main arguments

By this action, the applicant seeks annulment of Commission Decision C(2007) 2110 final of 10 May 2007 declaring the provisions of the French Code Monétaire et Financier which give three credit institutions, La Banque Postale, Caisses d'Épargne et de Prévoyance and Crédit Mutuel, special rights for the distribution of the *livret A* and *livret bleu* to be incompatible with Article 86(1) EC in conjunction with Articles 43 EC and 49 EC.

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

The first plea alleges infringement of essential procedural requirements in that the Commission did not respect the applicant's rights of the defence and in that the decision is vitiated by a lack of reasoning.

On the substance, the applicant alleges that the Commission erred in law in taking the view that the special rights for the distribution of the *livret A* and *livret bleu* constituted, *per se*, a restriction on the freedom of establishment. According to the applicant, the Commission committed an error of assessment in taking the view that those special rights, in practice, rendered the exercise of Community freedoms in France less attractive.

Furthermore, the applicant alleges that the contested decision is vitiated by errors of law and of assessment in that the Commission took the view that the special rights could not be justified under Article 86(2) EC, and by a error of assessment in that it took the view that they could not be justified on grounds of compelling reasons in the public interest.

Finally, the applicant submits that the Commission erred by evaluating the national measure at issue in the light of the principle of the freedom to supply services.

**Action brought on 31 July 2007 — MIP Metro v OHIM —
Metronia (METRONIA)**

(Case T-290/07)

(2007/C 235/33)

Language in which the application was lodged: English

Parties

Applicant: MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany) (represented by: J.-C. Plate, lawyer)

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

Other party to the proceedings before the Board of Appeal: Metronia, S. A. (Madrid, Spain)

Form of order sought

- Annul the decision of the Second Board of Appeal of the OHIM of 29 May 2007 in Case R 1315/2006-2 as far as the appeal has been dismissed on the ground that it does not comply with Article 8(1)(b) of Regulation No 40/94;
- order the defendant to pay the costs, including the costs of the opposition and appeal proceedings.

Pleas in law and main arguments

Applicant for the Community trade mark: Metronia, S.A.

Community trade mark concerned: The figurative Community trade mark 'METRONIA' for goods in class 9 and goods and services in classes 20, 28 and 41 — application No 3 387 834

Proprietor of the mark or sign cited in the opposition proceedings: MIP Metro Group Intellectual Property GmbH & Co. KG

Mark or sign cited: The national figurative trade mark 'METRO' for goods and services in classes 9, 20, 28 and 41, among others

Decision of the Opposition Division: Upheld the opposition and rejected the application in its entirety

Decision of the Board of Appeal: Dismissed the opposition and allowed the application to proceed

Pleas in law: Infringement of Article 8(1)(b) CTMR

The applicant claims that the contested decision is inconsistent with Article 8(1)(b) CTMR insofar as the Board held there was no likelihood of confusion between the conflicting marks, due to a lack of similarity of the signs concerned.

Decision of the Board of Appeal: Appeal upheld and decision appealed annulled.

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

⁽¹⁾ Council Regulation No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994, L 11, p. 1).

Action brought on 1 August 2007 — Viñedos y Bodegas Príncipe Alfonso de Hohenlohe v OHIM — Byass (ALFONSO)

(Case T-291/07)

(2007/C 235/34)

Language in which the application was lodged: Spanish

Parties

Applicant: Viñedos y Bodegas Príncipe Alfonso de Hohenlohe (Cenicero, Spain) (represented by: M Lobato García-Miján and B. Díaz de Escauriaza, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: González Byass, S. A.

Form of order sought

- Annul the decision of the Second Board of Appeal of the Office of 29 May 2007 upholding the appeal brought by GONZÁLEZ BYASS, S.A. against the decision of the Opposition Division of 6 July 2007 which upheld the opposition filed by the applicant against the application for the Community trade mark ALFONSO;
- Order the Office to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: GONZÁLEZ BYASS, S.A.

Community trade mark concerned: Word mark 'ALFONSO' (application for registration No 3398278) for goods in Classes 30 (vinegars), 32 (beers, mineral and aerated waters and other non-alcoholic drinks, fruit drinks and fruit juices, syrups and other preparations for making beverages) and 33 (sheries).

Proprietor of the mark or sign cited in the opposition proceedings: The applicant.

Mark or sign cited in opposition: Community and national word marks 'PRÍNCIPE ALFONSO', for goods in Class 33.

Decision of the Opposition Division: Opposition in relation to 'sheries' upheld and application for registration for those goods refused.

Action brought on 27 July 2007 — Stepek v OHIM — Masters Golf Company (GOLF-FASHION MASTERS THE CHOICE TO WIN)

(Case T-294/07)

(2007/C 235/35)

Language in which the application was lodged: German

Parties

Applicant: Wilhelm Stepek (Stadl-Paura, Austria) (represented by: H. Heigl, W. Berger and G. Lehner, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM: The Masters Golf Company Ltd.

Form of order sought

- acknowledgement that the First Board of Appeal of the Office for Harmonisation in the Internal Market was wrong to adopt the decision of 23 May 2007 in Case R 95/2007-1;
- annulment of the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market of 23 May 2007 in Case R 95/2007-1;
- an order that The Masters Golf Company Ltd pays the applicant the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: Wilhelm Stepek.

Community trade mark concerned: The figurative mark 'GOLF-FASHION MASTERS THE CHOICE TO WIN' for goods in Classes 3, 9, 12, 18, 24, 25 and 28 (application No 3 136 041).

Proprietor of the mark or sign cited in the opposition proceedings: The Masters Golf Company Ltd.