

**Action brought on 31 July 2007 — Evropaiki Dynamiki v Commission****(Case T-300/07)**

(2007/C 235/40)

*Language of the case: English***Parties**

*Applicant:* Evropaiki Dynamiki — Proigmena Systemata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: N. Korogiannakis, lawyer)

*Defendant:* Commission of the European Communities

**Form of order sought**

- Annul the Commission's decision of the Direction General for Informatics to reject the bid of the applicant, filed in response to the open Call for Tender ENTR/05/078 — YOUR EUROPE Lot 1 (Editorial Work and Translations) for 'Your Europe Portal Management and Maintenance' (OJ 2006/S 143-153057) communicated to the applicant by letter dated 21 May 2007 ('the decision on Lot 1') and to award the contracts to the successful contractor,
- annul the Commission's decision (DIGIT) to reject the bid of the applicant filed in response to the open Call for Tender ENTR/05/078 — YOUR EUROPE Lot 2 (Infrastructure Management) for 'Your Europe Portal Management and Maintenance' (OJ 2006/S 143-153057) communicated to the applicant by letter dated 13 July 2007 ('the decision on Lot 2') and to award the contracts to the successful contractors;
- order the Commission (DIGIT) to pay the applicant's damages suffered on account of the tendering procedure in question for an amount of EUR 1 125 000 Euros for Lot 1 and EUR 825 000 Euros for Lot 2;
- order the Commission (DIGIT) to pay the applicant's legal and other costs and expenses incurred in connection with this application, even if the current application is rejected.

**Pleas in law and main arguments**

In support of its claims the applicant argues that, in the framework of the tendering procedure ENTR/05/078 YOUR EUROPE Lot 1 (Editorial Work and Translations) for 'Your Europe Portal Management and Maintenance' (OJ 2006/S 143-153057) and ENTR/05/078 — YOUR EUROPE Lot 2 (Infrastructure Management) for 'Your Europe Portal Management and Maintenance' (OJ 2006/S 143-153057), the contracting authority, DG DIGIT of the European Commission, failed to comply with its obligations foreseen in the Financial Regulation <sup>(1)</sup>, its Implementing Rules and Directive 2004/18/EC <sup>(2)</sup> as well as the principles of transparency and equal treatment

The applicant moreover submits that the contracting authority committed several manifest errors of assessment which resulted in the rejection of its bid. Furthermore, the contracting authority allegedly infringed its obligation to state reasons for its decision and, in particular, to inform the applicant on the relative merits of the successful tenderer.

The applicant requests, hence, that the decision of the European Commission to reject its bid and to award the contract to the successful tenderer be annulled and that the defendant is ordered to pay all legal expenses related to the proceedings even in case the application is rejected. In the alternative, if the contract has already been executed by the time the Court reached its decision or if it is no longer possible to annul the decision, the applicant requests monetary compensation (damages) of EUR 1 125 000 for Lot 1 and EUR 825 000 for Lot 2 in accordance with Articles 235 and 288 EC.

<sup>(1)</sup> 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 L 248, p. 1).

<sup>(2)</sup> Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ L 134, p. 114).

**Action brought on 6 August 2007 — Motopress v OHIM — Sony Computer Entertainment Europe (BUZZ!)****(Case T-302/07)**

(2007/C 235/41)

*Language in which the application was lodged: German***Parties**

*Applicant:* Motopress Werbe- und Verlagsgesellschaft mbH (Vienna, Austria) (represented by: L. Wiltschek, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Sony Computer Entertainment Europe Limited

**Form of order sought**

- Amend the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 29 June 2007 (Appeal No R 1468/2006-2) to the extent required in order to grant the opposition to trade mark Application No 4 441 044;

- In the alternative, annul the contested decision and refer the case back to the Office for Harmonisation in the Internal Market;
- Order the Office for Harmonisation in the Internal Market to pay the costs of the appeal proceedings and of the proceedings before the Court of First Instance.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* Sony Computer Entertainment Europe Limited

*Community trade mark concerned:* the figurative mark 'BUZZ!' for goods and services in classes 9, 16, 28 and 41 (Application No 4 441 044).

*Proprietor of the mark or sign cited in the opposition proceedings:* the Applicant.

*Mark or sign cited in opposition:* Austrian word mark 'BUZZ!' for goods and services in classes 9, 16, 35 and 38.

*Decision of the Opposition Division:* rejection of the opposition.

*Decision of the Board of Appeal:* dismissal of the appeal.

*Pleas in law:* Infringement of Article 74(2) of Regulation (EC) No 40/94 <sup>(1)</sup> caused by disregard of evidence of the existence of the mark on which opposition is based.

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

### Action brought on 7 August 2007 — Nölle v OHIM — Viña Carta Vieja (Puzzle)

(Case T-303/07)

(2007/C 235/42)

*Language in which the application was lodged:* German

### Parties

*Applicant:* Jürgen Nölle (Rheinberg, Germany) (represented by: J. Reinartz, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Viña Carta Vieja S.A.

### Form of order sought

- Reject in its entirety the opposition of 24 February 2005 brought by Viña Carta Vieja S.A. against the trade mark

application made by the applicant on 20 February 2004 in relation to the word mark 'Puzzle', and in so doing annul the decision of the Second Board of Appeal of 5 June 2007 in Case R 911/2006-2 and the decision of the Opposition Division of 29 June 2006 No B 802 340;

- Order the defendant to pay the costs of the proceedings including the costs incurred by any intervening party.

### Pleas in law and main arguments

*Applicant for a Community trade mark:* The Applicant

*Community trade mark concerned:* The word mark 'Puzzle' for goods in classes 16, 32 and 33 (Application No 3 674 651).

*Proprietor of the mark or sign cited in the opposition proceedings:* Viña Carta Vieja S.A.

*Mark or sign cited in opposition:* In particular the word mark 'MONKEY PUZZLE' for goods in class 33 (Community trade mark No 3 238 144).

*Decision of the Opposition Division:* partial grant of the opposition.

*Decision of the Board of Appeal:* annulment of the decision of the Opposition Division, to the extent that it granted the opposition for goods in class 32.

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation (EC) No 40/94 <sup>(1)</sup>, because there is no likelihood of confusion between the opposing trade marks.

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

### Action brought on 10 August 2007 — Calzaturificio Frau v OHIM — Camper

(Case T-304/07)

(2007/C 235/43)

*Language in which the application was lodged:* Italian

### Parties

*Applicant:* Calzaturificio Frau SpA (San Giovanni Ilarione VR, Italy) (represented by: A. Rizzoli, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Camper S.L.