

*Community trade mark concerned:* The figurative mark, in colours 'METRO', for amongst others services in class 36 — Community trade mark application No 7585045

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

*Mark or sign cited in opposition:* Community trade mark registration No 7111974 of the figurative mark in colours 'GRUPOMETROPOLIS', for services in class 36

*Decision of the Opposition Division:* Rejected the opposition

*Decision of the Board of Appeal:* Dismissed the appeal

*Pleas in law:* Infringement of Articles 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms; Infringement of Articles 75 and 76 of Council Regulation No 207/2009; and Infringement of Article 8(1)(b) of Council Regulation No 207/2009

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### **Action brought on 8 May 2012 — Euro-Link Consultants and European Profiles v Commission**

(Case T-199/12)

(2012/C 209/16)

*Language of the case:* English

#### **Parties**

*Applicants:* Euro-Link Consultants Ltd (Bucharest, Romania) and European Profiles SA (Athens, Greece) (represented by: S. Pappas, lawyer)

*Defendant:* European Commission

#### **Form of order sought**

— Annul the decision of the Delegation of the European Union to Ukraine, dated 28 February 2012, contested in the present action, given in the framework of the tender EuropeAid/131567/C/SER/UA 'Crimean tourism diversification and support project'; as well as subsequent decisions of the same authority and of the director of the DG Development of the European Commission issued in the subject-matter;

— Order the defendant to pay the costs of the proceedings.

#### **Pleas in law and main arguments**

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

1. First plea in law, alleging an infringement of the essential procedural requirement to state reasons, stressing that

— case-law and legislation impose a duty on the defendant to elaborate on the advantages of the selected tender clearly, instead of merely contesting the evidence the applicants brought forward; a good administration has

to examine and address the allegations correctly, all the more so when various aggravating factors intensify this requirement.

2. Second plea in law, alleging an infringement of the essential procedural requirement to respect the applicable procedure, stressing that

— the evaluation procedure the committee followed was vitiated by irregularities, of which the defendant was aware and did not take into account prior to publishing the results. Thus, the subsequent decisions are unlawful, to the extent that they are based on the result of these irregularities.

3. Third plea in law, alleging infringement of equal treatment and misuse of powers, stressing that

— the illegal procedure was only applied in the case of the applicants, in breach of the principle of non-discrimination. It also appears that the sole purpose of the illegal procedure was to eliminate the applicants from the first place in the evaluation list.

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### **Action brought on 16 May 2012 — GRE v OHIM — Villiger Söhne (LIBERTE american blend)**

(Case T-205/12)

(2012/C 209/17)

*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 1 March 2012 in Case R 387/2011-1;

— 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 'LIBERTE american blend' for goods in Class 34 — application No 7 481 211

*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 '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 dismissed

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

**Action brought on 16 May 2012 — GRE v OHIM — Villiger Söhne (LIBERTE american blend)**

**(Case T-206/12)**

(2012/C 209/18)

*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 1 March 2012 in Case R 411/2011-1;

— 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 'LIBERTE american blend' for goods in Class 34 — application No 7 481 328

*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 '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 dismissed

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

**Action brought on 18 May 2012 — Think Schuhwerk v OHIM (Shoes with red aglets)**

**(Case T-208/12)**

(2012/C 209/19)

*Language of the case:* German

#### **Parties**

*Applicant:* Think Schuhwerk GmbH (Kopfing, Austria) (represented by M. Gail, lawyer)

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

#### **Form of order sought**

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 23 February 2012 in Case R 1552/2011-1;

— Order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to bear its own costs and to pay those of the applicant.

#### **Pleas in law and main arguments**

*Community trade mark concerned:* Other mark relating to shoes with laces at the end of which are red aglets, for goods in Class 25 — Application No 9 130 361

*Decision of the Examiner:* Registration refused

*Decision of the Board of Appeal:* Appeal dismissed

*Pleas in law:*

— Infringement of Article 7(1)(b) of Regulation No 207/2009

— Infringement of the principle of equal treatment