

Defendant: Commission of the European Communities (represented initially by S. Rating, subsequently by P. Oliver, H. Gading and M. Schneider, and finally by W. Mölls and R. Sauer, Agents)

Intervener in support of the defendant: Landbell AG für Rückhol-Systeme (Mayence, Germany) (represented by: A. Rinne and A. Walz, lawyers)

Re:

Annulment of Article 3 of Commission Decision 2001/837/EC of 17 September 2001 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Cases COMP/34493 — DSD, COMP/37366 — Hofman + DSD, COMP/37299 — Edelhoff + DSD, COMP/37291 — Rechmann + DSD, COMP/37288 — ARGE and five other undertakings + DSD, COMP/37287 — AWG and five other undertakings + DSD, COMP/37526 — Feldhaus + DSD, COMP/37254 — Nehlsen + DSD, COMP/37252 — Schönmakers + DSD, COMP/37250 — Altvater + DSD, COMP/37246 — DASS + DSD, COMP/37245 — Scheele + DSD, COMP/37244 — SAK + DSD, COMP/37243 — Fischer + DSD, COMP/37242 — Trienekens + DSD, COMP/37267 — Interseroh + DSD) (OJ 2001 L 319, p. 1), or, in the alternative, annulment of that decision in its entirety and of the applicant's commitment reproduced in recital 72 of that decision.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the applicant, Der Grüne Punkt — Duales System Deutschland GmbH, to bear three quarters of its own costs, three quarters of the costs incurred by the Commission, and the costs incurred by Landbell AG Rückhol-Systeme;
3. Orders the Commission to bear a quarter of its own costs and a quarter of the costs incurred by the applicant.

⁽¹⁾ OJ C 44, 16.2.2002.

Judgment of the Court of First Instance of 16 May 2007 — F v Commission

(Case T-324/04) ⁽¹⁾

(Staff cases — Officials — Expatriation allowance — Action for annulment — Action for damages — Article 4(1)(a) of Annex VII to the Staff Regulations — Concept of international organisation — Habitual residence and main occupation — Retroactive refusal to pay the expatriation allowance — Recovery of amounts wrongly paid)

(2007/C 155/38)

Language of the case: French

Parties

Applicant: F (Rhodes-Saint-Genèse, Belgium) (represented by: É. Boigelot, lawyer)

Defendant: Commission of the European Communities (represented by: H. Krämer, Agent)

Re:

First, annul the decisions of the Commission refusing with retroactive effect to pay the applicant the expatriation allowance and determining the method for recovery of the amounts wrongly paid on that account and, second, order repayment of all the amounts which have been or will be deducted from the applicant's salary from February 2004, plus interest, and damages for the material and non-material loss allegedly suffered.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the parties to bear their own costs.

⁽¹⁾ OJ C 300, 4.12.2004.

Judgment of the Court of First Instance of 16 May 2007 — Merant v OHIM — Magazin Verlag (FOCUS)

(Case T-491/04) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community word mark FOCUS — Earlier national figurative mark MICRO FOCUS — Likelihood of confusion — Similarity of signs — Article 8(1)(b) of Regulation (EC) No 40/04)

(2007/C 155/39)

Language of the case: German

Parties

Applicant: Merant GmbH (Ismaning, Germany) (represented by: A. Schulz, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: initially, D. Schennen, subsequently, G. Schneider, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the Court: Focus Magazin Verlag GmbH (Munich, Germany) (represented by: U. Gürtler, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 18 October 2004 (Case R 542/2002-2) in opposition proceedings between Merant GmbH and Focus Magazin Verlag GmbH.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 18 October 2004 (Case R 542/2002-2);
2. Orders OHIM to bear its own costs and to pay those incurred by the applicant, Merant GmbH;
3. Orders the intervener, Focus Magazin Verlag GmbH, to bear its own costs.

(¹) OJ C 82 of 2.4.2005.

**Judgment of the Court of First Instance (Second Chamber)
of 22 May 2007 — Commission v IIC**

(Case T-500/04) (¹)

(Arbitration clause — Jurisdiction of the Court of First Instance — Repayment of the advance paid by the Community for projects financed in the domain of trans-European telecommunications networks — Forfeiture — Eligibility of the costs purportedly incurred)

(2007/C 155/40)

Language of the case: German

Parties

Applicant: Commission of the European Communities (represented by: G. Braun, W. Wils and N. Knittlmayer, acting as Agents)

Defendant: IIC Informations-Industrie Consulting GmbH (established in Königswinter, Germany) (represented by: E. Rott and J. Wolff, lawyers)

Re:

Application under Article 238 EC for an order requiring the defendant to repay part of the advance paid by the Community in implementation of two financing contracts in relation to cultural programmes.

Operative part of the judgment

The Court:

1. Orders IIC Informations-Industrie Consulting GmbH to pay the Commission of the European Communities the principal sum due of EUR 179 337, together with default interest at 4 % per annum as from 1 November 1998 until full payment of the sums due;
2. Dismisses the action as to the remainder;

3. Dismisses the application by IIC Informations-Industrie Consulting GmbH for suspension of enforcement of this judgment;

4. Orders IIC Informations-Industrie Consulting GmbH to pay the costs.

(¹) OJ C 82, 2.4.2005.

**Judgment of the Court of First Instance of 16 May 2007 —
La Perla v OHIM — Worldgem Brands (NIMEI LA PERLA
MODERN CLASSIC)**

(Case T-137/05) (¹)

(Community trade mark — Cancellation proceedings — Community word mark NIMEI LA PERLA MODERN CLASSIC — Earlier national figurative and word marks la PERLA and LA PERLA PARFUMS — Relative grounds for refusal — Article 52(1)(a) of Regulation (EC) No 40/94 — Article 8(5) of Regulation No 40/94)

(2007/C 155/41)

Language of the case: Italian

Parties

Applicant: Gruppo La Perla SpA (Bologna, Italy) (represented by: R. Morresi and A. Dal Ferro, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: initially M. Capostagno, and subsequently O. Montalto, Agents)

Other party to the proceedings before the OHIM Board of Appeal, intervener before the Court of First Instance: Worldgem Brands — Gestão e Investimentos L^{da}, formerly Cielo Brands — Gestão e Investimentos L^{da}, (Madeira, Portugal) (represented by: G. Bozzola et C. Bellomunno, lawyers)

Re:

Appeal lodged against the decision of the First Board of Appeal of OHIM of 25 January 2005 (Case R 537/2004-1) relating to cancellation proceedings between Gruppo La Perla SpA and Worldgem Brands — Gestão e Investimentos L^{da}.

Operative part of the judgment

1. The decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 25 January 2005 (Case R537/2004-1) is annulled.
2. The intervener is ordered to bear its own costs and to bear one third of the applicant's costs.