

J.O.U.E. Part C - November 2009

07/11/09 – C267

V Announcements
COURT PROCEEDINGS

Court of Justice

2009/C 267/15

Case C-42/07: Judgment of the Court (Grand Chamber) of 8 September 2009 (reference for a preliminary ruling from the Tribunal de Pequena Instância Criminal do Porto (Portugal)) — Liga Portuguesa de Futebol Profissional (CA/LPFP), Bwin International Ltd, formerly Baw International Ltd v Departamento de Jogos da Santa Casa da Misericórdia de Lisboa (Reference for a preliminary ruling — Article 49 EC — **Restrictions on the freedom to provide services** — Offer of **games of chance via the internet**)

2009/C 267/21

Case C-478/07: Judgment of the Court (Grand Chamber) of 8 September 2009 (reference for a preliminary ruling from the Handelsgericht Wien (Austria)) — Budějovický Budvar National Corporation v Rudolf Ammersin GmbH (Bilateral agreements between Member States — Protection in a Member State of a geographical indication of provenance of another Member State — Designation ‘Bud’ — Use of the mark ‘American Bud’ — Articles 28 EC and 30 EC — Regulation (EC) No 510/2006 — Community system of **protection of geographical indications and of designations of origin** — Accession of the Czech Republic — Transitional measures — Regulation (EC) No 918/2004 — Scope of the Community system — Exhaustive nature)

Court of First Instance

2009/C 267/91

Case T-99/06: Judgment of the Court of First Instance of 23 September 2009 — Phildar v OHIM — Comercial Jacinto Parera (FILDOR) (**Community trade mark** — Opposition proceedings — Application for the Community word mark FILDOR — Earlier national semi-figurative mark PHILDAR — Earlier national word mark FILDOR — Earlier international word and semi-figurative marks PHILDAR — Relative ground for refusal — Likelihood of confusion — Articles 8(1)(b), 62 and 73 of Regulation (EC) No 40/94 (now Articles 8(1)(b), 64 and 75 of Regulation (EC) No 207/2009)

2009/C 267/92

Case T-221/06: Judgment of the Court of First Instance of 16 September 2009 — Hipp & Co v OHIM — Laboratoris Ordesa (Bebimil) (**Community trade mark** — Opposition procedure — Application for Community word mark Bevimil — Earlier Community and national word marks BLEMIL — Earlier national word mark BLEMIL 1 — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009) — Likelihood of confusion)

2009/C 267/94

Case T-391/06: Judgment of the Court of First Instance of 23 September 2009 — Arcandor v OHIM — dm drogerie market (S-HE) (**Community trade mark** — Opposition proceedings — Application for the Community word mark S-HE — Earlier national word mark SHE, earlier national and international figurative trade mark She — Relative ground for refusal — No likelihood of confusion — Lack of similarity between the signs — Article 8(1)(b) of Regulation (EC) No 40/94 [now Article 8(1)(b) of Regulation (EC) No 207/2009)

2009/C 267/95

Case T-400/06: Judgment of the Court of First Instance of 16 September 2009 — Zero Industry v OHIM — zero Germany (zerorh+) (**Community trade mark** — Opposition proceedings — Application for figurative Community mark zerorh+ — Earlier national figurative and word marks zero — Likelihood of confusion — Similarity of the signs — Similarity between products — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009)

2009/C 267/96

Case T-80/07: Judgment of the Court of First Instance of 16 September 2009 — JanSport Apparel v OHIM (BUILT TO RESIST) (**Community trade mark** — Application for the Community word mark BUILT TO RESIST — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94 (now Article 7(1)(c) of Regulation (EC) No 207/2009)

2009/C 267/97

Case T-103/07: Judgment of the Court of First Instance of 23 September 2009 — Fratex Industria e Comércio v OHIM— USA Track & Field (TRACK & FIELD USA) (**Community trade mark** — Opposition proceedings — Application for figurative Community mark TRACK & FIELD USA — Earlier national figurative mark TRACK & FIELD — Relative ground for refusal — No likelihood of confusion — Lack of similarity between the signs — Article 8(1)(b) of Regulation (EC) No 40/94 [now Article 8(1)(b) of Regulation (EC) No 207/2009)

2009/C 267/99

Case T-180/07: Judgment of the Court of First Instance of 16 September 2009 — Promomadrid v OHIM (MADRIDEXPORTA) (**Community trade mark** — Application for Community figurative mark MADRIDEXPORTA — Absolute grounds for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 40/94 (now Article 7(1)(c) of Regulation (EC) No 207/2009)

2009/C 267/103

Case T-291/07: Judgment of the Court of First Instance of 23 September 2009 — Viñedos y Bodegas Príncipe Alfonso de Hohenlohe v OHIM — Byass (ALFONSO) (**Community trade mark** — Opposition proceedings — Application for the Community word mark ALFONSO — Earlier Community and national word marks PRINCIPE ALFONSO — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009) — Scope of the examination to be carried out by the Board of Appeal — Obligation to rule on the entirety of the action — Article 62(1) of Regulation No 40/94 (now Article 64(1) of Regulation No 207/2009)

2009/C 267/104

Joined Cases T-305/07 and T-306/07: Judgment of the Court of First Instance of 16 September 2009 — Offshore Legends v OHIM — Acteon (OFFSHORE LEGENDS in black and white and OFFSHORE LEGENDS in blue, black and green) (**Community trade mark** — Opposition proceedings — Application for two Community figurative marks OFFSHORE LEGENDS, one in black and white, the other in blue, black and green — Earlier national figurative mark OFFSHORE 1 — Relative grounds for refusal — Likelihood of confusion — Similarity of goods and signs — Absence of request for proof of genuine use of the earlier mark — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009) — Article 43(2) and (3) of Regulation No 40/94 in conjunction with Article 15(2)(a) of Regulation No 40/94 (now Article 42(2) and (3) and point (a) of the second subparagraph of Article 15(1) of Regulation No 207/2009)

2009/C 267/105

Case T-391/07: Judgment of the Court of First Instance of 16 September 2009 — Alber v OHIM (hand grip) (**Community trade mark** — Application for a three-dimensional Community trade mark — Hand grip — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EC) No 207/2009) — Duty to give reasons — Article 73 of Regulation No 40/94 (now Article 75 of Regulation No 207/2009) — Principle of examination of the facts of its own motion — Article 74(1) of Regulation No 40/94 (now Article 76(1) of Regulation No 207/2009)

2009/C 267/106

Case T-396/07: Judgment of the Court of First Instance of 23 September 2009 — France Télécom v OHIM (UNIQUE) (**Community trade mark** — Application for the Community word mark UNIQUE — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 7(1)(b) of Regulation (EC) No 207/2009)

2009/C 267/107

Case T-409/07: Judgment of the Court of First Instance of 23 September 2009 — Cohausz v OHIM — Izquierdo Faces (acopat) (**Community trade mark** — Invalidity proceedings — Community figurative mark acopat — Earlier national word marks COPAT — Relative ground for refusal — No genuine use of the earlier marks — Article 56(2) and (3) of Regulation (EC) No 40/94 (now Article 57(2) and (3) of Regulation (EC) No 207/2009)

2009/C 267/108

Case T-458/07: Judgment of the Court of First Instance of 16 September 2009 — Dominio de la Vega v OHIM — Ambrosio Velasco (DOMINIO DE LA VEGA) (**Community trade mark** — Opposition proceedings — Application for Community figurative mark DOMINIO DE LA VEGA — Earlier Community figurative mark PALACIO DE LA VEGA — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009)

2009/C 267/109

Joined Cases T-493/07, T- 26/08 and T-27/08: Judgment of the Court of First Instance of 23 September 2009 — GlaxoSmithKline and others v OHIM — Serono Genetics Institute (FAMOXIN) (**Community trade mark** — Invalidity proceedings — Community word mark FAMOXIN — Earlier national word marks LANOXIN — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) and Article 52(1)(a) of Regulation (EC)

No 40/94 (now Article 8(1)(b) and Article 53(1)(a) of Regulation (EC) No 207/2009) — Proof of use — Article 56(2) and (3) of Regulation No 40/94 (now Article 57(2) and (3) of Regulation No 207/2009)

2009/C 267/110

Joined Cases T-20/08 and T-21/08: Judgment of the Court of First Instance of 23 September 2009 — Evets v OHIM (DANELECTRO and QWIK TUNE) (**Community trade mark** — Community word mark DANELECTRO and Community figurative mark QWIK TUNE — Failure to observe the time-limit for submitting a request for renewal of the trade marks — Application for restitutio in integrum — Reformatio in pejus — Rights of the defence — Right to be heard — Article 61(2), second sentence of Article 73, and Article 78 of Regulation (EC) No 40/94 (now Article 63(2), second sentence of Article 75, and Article 81 of Regulation (EC) No 207/2009)

2009/C 267/111

Case T-130/08: Judgment of the Court of First Instance of 16 September 2009 — Gres La Sagra v OHIM — Ceramicalcora (VENATTO MARBLE STONE) (**Community trade mark** — Opposition proceedings — Application for Community figurative mark VENATTO MARBLE STONE — Earlier national figurative marks VENETO CERÁMICAS — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009)

2009/C 267/112

Case T-139/08: Judgment of the Court of First Instance of 29 September 2009 — The Smiley Company v OHIM (Representation of half a smiley smile) (**Community trade mark** — International registration designating the European Community — Figurative mark representing half a smiley smile — Absolute ground for refusal — Lack of distinctive character — Article 146(1) and Article 7(1)(b) of Regulation (EC) No 40/94 (now Article 151(1) and Article 7(1)(b) of Regulation (EC) No 207/2009)

12/11/09 – C271E

I Resolutions, recommendations and opinions

RESOLUTIONS

European Parliament

Thursday 8 May 2008

2009/C 271 E/02

Human Rights in the World 2007 and the EU's policy on the matter

European Parliament resolution of 8 May 2008 on the Annual Report on Human Rights in the World 2007 and the European Union's policy on the matter (2007/2274(INI))

17/11/09 – C276

I Resolutions, recommendations and opinions

OPINIONS

European Data Protection Supervisor

2009/C 276/01

Opinion of the European Data Protection Supervisor on the proposal for a Council Regulation amending Regulation (EC) No 881/2002 imposing certain specific restrictive measures directed against certain **persons and entities associated with Usama bin Laden, the Al-Qaida network and the Taliban**

2009/C 276/02

Opinion of the European Data Protection Supervisor on the Communication from the Commission to the European Parliament and the Council on an **area of freedom, security and justice serving the citizen**

18/11/09 – C278

V Announcements

ADMINISTRATIVE PROCEDURES

Commission

2009/C 278/11

Call for Proposals under the **2010 work programme ‘People’ of the seventh EC Framework Programme** for research, technological development and demonstration activities

19/11/09 – C279E

I Resolutions, recommendations and opinions

RESOLUTIONS

European Parliament

2008-2009 SESSION

Sittings of 20 to 22 May 2008

(2009/C 279 E/04)

EU consumer policy strategy 2007-2013 European Parliament resolution of 20 May 2008 on EU **consumer policy strategy** 2007-2013 (2007/2189(INI))

Preparatory Acts

European Parliament

(2009/C 279 E/39)

Mobile satellite services (MSS) ***I European Parliament legislative resolution of 21 May 2008 on the proposal for a decision of the European Parliament and of the Council on the selection and authorisation of systems providing mobile satellite services (MSS) (COM(2007)0480 — C6-0257/2007 — 2007/0174(COD))

P6_TC1-COD(2007)0174 Position of the European Parliament adopted at first reading on 21 May 2008 with a view to the adoption of Decision No .../2008/EC of the European Parliament and of the Council on the **selection and authorisation of systems providing mobile satellite services** (MSS)

21/11/09 – C282

V Announcements

Last publication of the Court of Justice in the Official Journal of the European Union [OJ C 267, 7.11.2009](#)

COURT PROCEEDINGS

Court of Justice

2009/C 282/32

Case C-416/08 P: Order of the Court (Sixth Chamber) of 10 July 2009 — Apple Computer Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs), TKS-Teknosoft SA (Appeal — **Community trade mark** — Regulation (EC) No 40/94 — Article 8(1)(b) — Word mark QUARTZ — Opposition by the proprietor of the Community figurative mark QUARTZ — Refusal to register — Similarity between goods — Likelihood of confusion — Appeal clearly inadmissible)

2009/C 282/71

Case T-8/06: Judgment of the Court of First Instance of 6 October 2009 — FAB v Commission (**State aid** — **Digital terrestrial television** — Aid granted by the German authorities to broadcasters which use the digital terrestrial television network (DVB-T) in Berlin-Brandenburg — Decision declaring the aid incompatible with the common market and ordering its recovery — Action for annulment — Meaning of State aid — State resources — Compensation for discharging public service obligations — Aid intended to promote culture — Legitimate expectations)

2009/C 282/72

Case T-21/06: Judgment of the Court of First Instance of 6 October 2009 — Germany v Commission (**State aid** — **Digital terrestrial television** — Aid granted by the German authorities to broadcasters which use the digital terrestrial television network (DVB-T) in Berlin-Brandenburg — Decision declaring the aid incompatible with the common market and ordering its recovery — Principles of sound administration and proportionality — Rights of the defence)

2009/C 282/73

Case T-24/06: Judgment of the Court of First Instance of 6 October 2009 — MABB v Commission (**State aid** — **Digital terrestrial television** — Aid granted by the German authorities to broadcasters which use the digital terrestrial television network (DVB-T) in Berlin-Brandenburg — Decision declaring the aid incompatible with the common market and ordering its recovery — Action for annulment — Not of individual concern — Inadmissibility)

2009/C 282/83

Case T-140/08: Judgment of the Court of First Instance of 14 October 2009 — Ferrero v OHIM — Tirol Milch (TiMi KiNDERJOGHURT) (**Community trade mark** — Invalidity proceedings — Community figurative trade mark TiMi KiNDERJOGHURT — Earlier word mark KINDER — Relative ground for refusal — Lack of similarity of the signs — Earlier opposition proceedings — Absence of res judicata — Article 8(1)(b), Article 8(5) and Article 52(1)(a) of Regulation (EC) No 40/94 [now Article 8(1)(b), Article 8(5) and Article 53(1)(a) of Regulation (EC) No 207/2009)

2009/C 282/84

Case T-146/08: Judgment of the Court of First Instance of 13 October 2009 — Deutsche Rockwool Mineralwoll v OHIM — Redrock Construction (REDROCK) (**Community trade mark** — Opposition proceedings — Application for Community figurative mark REDROCK

— Earlier national word mark Rock — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 [now, Article 8(1)(b) of Regulation (EC) No 207/2009]

2009/C 282/85

Case T-191/08: Judgment of the Court of First Instance of 30 September 2009 — JOOP! v OHIM (Representation of an exclamation mark in a rectangle) (**Community trade mark** — Application for registration of a figurative Community trade mark representing an exclamation mark in a rectangle — Absolute ground for refusal — No distinctive character — No distinctive character acquired through use — Article 7(1)(b), (c) and 7(3) of Regulation (EC) No 40/94 (now Article 7(1)(b), (c) and 7(3) of Regulation (EC) No 207/2009)

2009/C 282/88

Case T-12/05: Order of the Court of First Instance of 24 September 2009 — SBS TV and SBS Danish Television v Commission (**State aid** — Recapitalisation of a **public service broadcaster** following a first decision ordering recovery of incompatible State aid — Decision not to raise any objections — Annulment of the first decision — No need to adjudicate)

2009/C 282/89

Case T-16/05: Order of the Court of First Instance of 24 September 2009 — Viasat Broadcasting UK v Commission (State aid — Recapitalisation of a public service broadcaster following a first decision ordering the recovery of incompatible State aid — Decision not to raise objections — Annulment of the first decision — No need to adjudicate)

2009/C 282/94

Case T-256/08: Order of the Court of First Instance of 9 September 2009 — Wrigley v OHIM — Mejerigaarden (POLAR ICE) (**Community trade mark** — Opposition — Withdrawal of the opposition — No need to adjudicate)

21/11/09 – C282

V Announcements

ADMINISTRATIVE PROCEDURES

Commission

2009/C 283/09

Call for proposals under the work programme of the **7th EC Framework Programme** for Research, Technological Development and Demonstration Activities (**NB JPM** : Cooperation Specific Programme: **Information and Communication Technologies**: FP7-ICT-2009-6).

21/11/09 – C282

V Announcements

ADMINISTRATIVE PROCEDURES

Commission

2009/C 284/08

Call for proposals under the **2010 work programme ‘People’** of the 7th EC Framework Programme for Research, Technological Development and Demonstration Activities

27/11/09 – C286

V Announcements

ADMINISTRATIVE PROCEDURES

Commission

2009/C 286/03

Call for proposals — EACEA/28/09 — Tempus IV — Reform of higher education through **international university cooperation**

27/11/09 – C286E

European Parliament

2008-2009 SESSION

Sittings of 17 to 19 June 2008

TEXTS ADOPTED

III Preparatory acts

European Parliament

Tuesday 17 June 2008

2009/C 286 E/15

European Network and Information Security Agency *I**

European Parliament legislative resolution of 17 June 2008 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 460/2004 establishing the European Network and Information Security Agency as regards its duration (COM(2007)0861 — C6-0003/2008 — 2007/0291(COD))

P6_TC1-COD(2007)0291

Position of the European Parliament adopted at first reading on 17 June 2008 with a view to the adoption of Regulation (EC) No .../2008 of the European Parliament and of the Council amending Regulation (EC) No 460/2004 establishing the European Network and Information Security Agency as regards its duration

2009/C 286 E/20

Legal protection of **computer programs** (codified version) ***I

European Parliament legislative resolution of 17 June 2008 on the proposal for a directive of the European Parliament and of the Council on the legal protection of computer programs (codified version) (COM(2008)0023 — C6-0042/2008 — 2008/0019(COD))

30/11/09 – C290

Corrigenda

2009/C 290/01

Procès-verbal of rectification to the **Treaty of Lisbon** amending the Treaty on European Union and the Treaty establishing the European Community, signed at Lisbon on 13 December 2007 ([OJ C 306, 17.12.2007](#))