

?????????? ?? ??????? ???????????

DÁMASO RUIZ-JARABO COLOMER

??? 22?? ??????? 2006 1(1)

?????? C-240/05

Administration de l'enregistrement et des domaines

???

Eurodental Sàrl

(?????? ?? Cour d'appel ??? ??????? ???????? ??? ??????????????)

«???? ??????? ??? ?? – ??????? ?????????????? ??? ?????????? ??? ????? – ???????
– ??? ??????? ?????????? – ??????? ?????? – ?????????????? ??? ?????? ??? ?? ?????????????? ??
????????????? ?????????? ??? ?????????? ??? ?????????? ??? ?????? – ??? ??? ??????????
?????????????»

I - ?????????

1. ? ????? ?????? ??? ?? ????? ?????????????? ?????? (2) (??? ????: ???) ?????? ???
?????????? ??????????, ?? ?????? ?? ?????????? ?? ?????????? ?? ?????????? ?????????? ??? ??????????????
?????, ??? ?? ?????????? ??? ?????????? ??? ?????????? ?????????????? ??????, ??? ??
????? ?????????? ? ??????? ???.
 2. ?? Cour d'appel (????????????? ??????????) ??? ?????????????? ?????? ??? ??
????????? ?????????? ? ?????, ??? ?????????????? ??? ?????????? ?????? ?????????? ??????
?????, ?????????? ??? ?????? ??? ??? ?????????? ?????? ?????????? ?????????? ??
????????? ??? ?????? ?????????? ?? ?????? ??? ?????? ?????? ?????? ?????? ??????.
 3. ?? ?? ??? ?????????????? ??????? ??? ?????? ??? ?????? ?????? ?????? ?????? ???
????????? ?????????? ?????????? ??????? ??? ?????????? ??? ?????????? ??? ?????????? ???
??? ?? ?????????????? ??? ?????? 13 ??? ?????? ?????? ??? ??? ?????????? ???
????????? ?? ?????? 15 ??? ??? ?????????? ?????????? ?????????? ?????????? , ??? ?????? ???
????????? ?????????? ??? ??? ?????????? ?????? ??? 1? ?????????? 1993, ??? ?? ??
????? 28? (3), ??? ?????? ??? ??? ?????? ?????????? ?????????? ??? ?????? ??? ?? ?? ??????????.
 4. ??????????, ??????? ?? ?????????????? ?? ??? ?????? ?????????? ??? ?????????? ???
????????? ??? ?????? ?????????? ?????????? ??? ?????????? , ??? ?? ?????????? ???
????????? ??? ?? ??? ?????? ?????????? ?????????? , ? ?????????? ?????? ??? ?????? ???
????????? ??? ?? ?????? ?????? ?????????? ?????????? ??? ?????? ??????.

II – ? ????? ???????

? – ?? ?????????? ??? ?????????? ??? ??????

5. ? ????? ?????? ?????????? ?? ?????????? ??? ?????????? ?????? ??? ???? ?????? ?????????? ?????????? (4) ??? ?????????????????? ?? ?????????? ?????? ??? ?????????? ?????? ??? ???? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (????? 2, ?????????? 1, ??? 4, ?????????? 1 ??? 2).

6. ? ?????? X ?????????? ??? ?????????? ??? ?? ?????? 13 ?????????????? ?????? ??? ?????????? ?????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? «????????? ??????????, ?? ?????? ?????????????????? ??? ?????? [?]???? ?????????? ?????? ?????? ?????????????? ??? ?????????? ??? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? » (????????? 1, ?????????? ??).

7. ??? ?????????? ?? ?????????????? ??? ?? ?????? 17, ?????????? 1 ??? 2, ?? ?? ??? ?????? ?????????? ?????????????? ?????? ?????????? ??? ?????????? ??? ?????????? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???.

8. ? ?????????? 3, ?????????? ?, ??? ?????? 28 ?????????? ??? ?????? ??? ???? ?? ?????????? ?? ?????????? ???, ??? ?? ?????????? ??? ?????? ?????? 4 ?????????? ?????????, ?? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?????? 13 ??? ?????????? ??? ?????? ?, ?? ?????? 2 ??? ?????? ?????????? ??? ?????? 13, ?, ?????????? 1, ?????????? ?. ?????? ??? ?????? 4, ?????? 14, ?????? ??????, ??? Umsatzsteuergesetz ??? 1991 (????????? ??? ?????? ??? ??? ?????? ?????????? ??? ??????) (5), ? ?????????? ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

? – ?? ?????????? ??? ?????????????? ??????????

1. ??? ??? 1?? ?????????? 1993

9. ??? ?????? ?????? ??? ?????? ?????? ?? ?????? ?????? ?????????? ?????????? ?????? ?????? 15, ?? ?????? ?????? ?????? ?????? ??? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? (6).

10. ?? ?????? 17, ?????????? 3, ???????? ?, ?????? ??? ?????????? ?????? ?????? ?????? ?? ?????? ?????? ?????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????? ?????? ??????.

2. ??? ??? 1? ?????????? 1993

11. ? ??????? 91/680 ??????? ??? ?????? ?????? ??? ?????, ??? XVI?, ?? ????
«?????????? ??????? ??????????? ??? ??????????? ?????? ??? ?????? ?????», ???
?????????? ??? ???????????, ??? ??? ?????????? ??? ??????????? ?????? ??? ?????
????? ??? 1?? ?????????? 1993, ??? ??????? ?????????? ?????????? ??? ?????
????? ??? ?????? ?????????? ??? (7).

12. ??? ??????? ??? ??????????? ??? ?????? ???????????, ??????????? ??? ?? ?? ???????
????? «?????????????? ??????????», ??? ?????????? ??? ?????, ??? ??????????? ???
???? ??????????? ??? ??? ??????? ??? ??? ???? ???? ?????????? ??? ????? ???
??????, ??? ? ?????? ????? ?????????? ??? ??? ??? ?????????? ??? ????? ???
??? ??? ??????? ??? ??? (????? 28?, ?????????? 1, ??????? ?, ?????? ??????).

13. ??????????? ?? ?????????? ??? ?????? ?? ??? «?????????????? ? ??????????? ??? ??
????? ? ??? ??????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? [...] ??? ???
????????? ??? ??? ??? ???? ??? ?????????? ??? ?????? ??? ?????? ???' ??? ???
????????? ???, ??? ?????? ????? ?????????? ??? ?? ??? ?????? ??? ?????????? ???
????????? ? ??? ?????????? ??? ?????? [????? 28?, ?, ??????? ?]. ?????? ???????????
?? ?????????? ?????? ???????, ? ?????? ??? ?????? ??? ?????? ??? ?????????? ???
????? ?????????? ?? ??? ?????? ?????? ??? ?????» (????? 28?, ?, ??????? ?).

14. ?????, ?? ??? 17, ?????????? 3, ??? ??????????? ??? ?? ??? 28??, ???????????
1, ?????????? ??? ??????? ??? ??????????? ???, ?? ? ??????????? ??? ???
?????????? ?? ??? ???? ???? ?????????? ??? ??? ??????: 1) ??????? ??? ??? ???????????,
????????? ??? ?????????? ????? ???????, ??? ????? ?????????????? ??? ?????????? ???
????????? ???????, ??? ?????? ?????????? ??? ?????????? ??? ?????????? ???
(????????? ?) ??? 2) ??????? ??? ??? ?????????? ??? ??? 15 ??? ?? ??? 28?, ?
??? ? (????????? ?).

III – ? ?????? ??? ?? ?????????? ????????

15. ? ?????????????? ?????? Eurodental SARL ??? ?? ?????????? ??? ?????????? ???
?? ??????? ??? ????? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? ???
??????.

16. ?? ??????? ??? 26?? ?????? 1997, ? ??????? ??? ?????? ?????????? ?????????? ???
?? ??? ?????? ??? ?????? ??? ??? ??? ?????? ?????? ??? ?? ?????? ??? ???
????????????? ??? ??? ??? ?????????? ??? ??? ?????? ?????????? ??? ?????????? ????. ??
????????? ??? ??? ??? ?? ??? 44 (?? ?? ??? ?????? ?????????? ?????????? ??? ?? ???
????????? ??????) ??? ?????? ??? 12?? ?????????? 1979, ? ?????? ?????????? ???
????????? ??? ??? 5?? ?????????? 1969 ??? ??? (8), ?????????? ??? ?????? 43 (??
????? ??????? ??? ?????? ??? ?????????? ??? ?????????? ??????) ??? ???, ?? ?? ??????, ???
????? ??????? ?? ??? 49, ?????????? 2, ??????? ??, ??? ?????? ??? ?????????? ???
????????? ??? ?????? ?????? ?????????? ??? ?????? ??? ?????????? ??? ???

17. ?? Tribunal d'arrondissement (????????????????????????), ?? ????????? ??? ?? 16??
???????????? 2002, ?????? ?????????? ??? ?????? ??? ??????????, ?? ?? ?????????? ??? ?? ??
?? ?????? 43 ?? 44 ??????? ?????????????? ??????????: ?? ?????? ?????? ??? ??????????
?? ?????????? ?? ???? ?????? ?????? ??? ?????????? ??? ??????. ?? ?????? 49 ??????????
???? ??????, ?????????? ?? ?????? ???- ???????, ??? ?????? ?????? ??? ??????????
???????? ?? ?????? 44 ?? ?? ?????? 43. ??? ?????? ?????? ??? ?????????? ????, ??? ??
????????????? ?????????? ??? ?????? ?????? ?????? ?????????? (9).

«1. ?????????? ? ??????? ??????? ? ??????, ?????? ?????????????????? ??? ?????????? ??????
??????, ?????????????? ??????? ??? ?????? 13, A, ?????????? 1, ?????????? ?, ??? ??????
?????? [...] ??? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??? ?????? ?????? ???
?????? 17 ??? ?? ??? ????? ??????, ??? ????? ??????????, ???????????, ??? ?????? 15,
????????? 1 ??? 2, ??? ?? ??? ??????, ??? ?????? ??? 1? ?????????? 1993 ???
??? ?????? 28?, A, ????????, ??, ??? ??? ?????? ??? 17, ?????????? 3, ????????, ??, ??? ?? ???
??????, ??? ??? ?????? ?????????? ??? ?????? 17, ?????????? 3, ????????, ??, ??? ?? ???
?????? ??? ?????? ?????????? ?????????? ??? ?????? ??? ??? ?????? ??????
????????????? ??? ?????????????? ?????????????? ?????????????? ??? ?????? ?????? ???
????????? ?? ?????????????? ?????????????? ??? ?????? ?????? ?????? 15,
????????? 1 ??? 2, ??? ?? ??? ?????? ?????? ??? ?????? ??? 1? ?????????? 1993 ???
??? ?????? 28?, A, ????????, ??, ??? ??? ?????? ?????????? ??? ?????? 1? ?????????? 1993;

2. ?????????? ? ??????? ?????????? ? ??????, ?????? ?????????????????? ??? ?????????? ??????
??????, ?????????????? ??????? ??? ?????? 13, A, ?????????? 1, ?????????? ?, ??? ??????
?????? [...] ??? ??? ?????? ??????? ?????????? ??? ?????? ??? ?????? ??? ??? ?????? ??????
??? ?????? 17 ??? ?? ??? ?????, ??? ??? ????? ?????????? ??? ?????? 15, ?????????? 3, ???
?? ??? ?????, ??? ?????? ??? ?????? ??? 1? ?????????? 1993 (???????) ??? ??????????
????? ?????? ??? ?????????? ??? 1993) ???, ??? ??????????, ??? ??? ?????? ??????????
??? ?????? 17, ?????????? 3, ??????? ??, ??? ?? ??? ????? ?????????? ??? ?????????? ?????????? ???
?????? ??? ?????? ??? ??? ?????? ?????? ?????? ?????????????????? ??? ??????????????
????????????? ??? ?????? ?????? ?????? ??? ?????? ?????????? ??? ?????????????? ??????????????
????? ??? ?????? ?????? ??? ?????? ?????? ?????? ?????????? ??? ?????????????? ??? ?????????? ???
????????? ??? ?????? 15, ?????????? 3, ??? ?? ??? ????? ?????? ??? ?????? ??? ??? 1?
????????? 1993:»

|V = ? ?????????????? ?????????? ??? ??????????????

20. ??????? ?????????????? ??????????, ??? ???? ???? ?????????? ??? ???? ???? 23 ???
????????? ?? ??? ?????????? ??????????, ? Eurodental, ? ?????? ??? ?????? ????
????????????? ????????. ? ??????? ?????????? ??? ???? ????.

21. ?????? ??????? ?? ?????????? ?? ?????? ?? ?????????? ?? ?????????? ?? ??????????

2005, ??? ?????? ??? ??????????? ??? ??????????, ???????? ?? ???? 104, ?????????? 4,
??? ?????????? ??????????, ????? ?? ?????? ?????????? ??? ?????? ?????????? ??????????.

22. ??? ?? ???????, ?? ?????? ???, ??? ?????? ?????????? ? ???????, ?????????? ??? 6
????????? 2006 ??? ??????? ??? ?????????? ??????????, ? ?????, ??? 25 ???????,
????????? ?? ?????????? ??? ?????????? ?????????, ??? ?????? ?????? ?? ??????
????????? ??? ?? ?????????? ?????????? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ?????? ??? ?????????? ??? ?????? ?????? ?? ???? ?????????, ??? ??? ?????? ???
????????? ??? ?????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????????? ???
????? ??? ?????? 28, ?????????? 3, ???????? ??, ??? ?????? ??????, ??? ??????
????????? ??????, ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?????????? ?????????? ???
????????? ?????? ?????????? ?????? ??? ?????? ?????????? ??? ?????? ?????????? ???
??? ?????? ???.

23. ??? ??' ?????????? ??? ?????????? ??? 31?? ??? 2006 ?????????? ?? ?????????? ???
Eurodental ??? ??? ?????????? ??? ?????????? ??? ?????????? ??? ?????? ???.

V – ?????? ?? ?????????? ??????

24. ?? ?? ?? ?????????? ???, ?? ?????? ?????? ?? ?????????? ?? ??,
????????? ?? ?????? ??? ?????? ?????? ??? ?????? ?????????? ??? ?????????????? ??? ??
????? ??????: ??? ?????????? ?????????? ?????????? ??? ?????? ?????????????? ???
????????? ??? ?????? ??? ?????????????? ??? ?????? 13, A, ?????????? 1, ??? ??
????????? ??? ?????????? ??????. ?? ?????? ?????? ?????? ??? ?????? ?????????? ???
????? ??? ?????? ??? ?????? ??? 1? ?????????? 1993, ??? ?? ?????? ?????????? ???
????????? ?????? ??? ?????? ??? ?????????? ???.

25. ?????? ??? ?????????? ??? ?????????? ?? ?????? ??? ? ?????????????? ?????????????? ???
????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??? ?????? ?????????????? ???
????? ??? ?????? ??? (????????????? ??????????) ??? ??? ?????? ?????? ?????????? ???
(?????????????), ?? ?????????? ???, ??????, ?????????, ?? ??? ?????? ?????????, ??????, ???
????????? ??? ?????? ??? ?????? ???, ?????????? ?? ?????????? ?????????? ??? ???, ?? ???
????????? ??? ?????? ??? ??????.

26. ? ?????? ??? ?????????? ?????????????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ??????????????, ? ?????? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
????????? ??? ??????.

? – ? ?????????? ??? ?????? ??? ?????? ???

27. ? ??? ?????? ??? ?????? ?????????? ??? ?????? ?????? ??? ?????????? ???
????????? ??? ?????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ? ???
????????? ?????????? ???, ?? ??????, ?? ?? ?????? ??? ?????????? ???, ?????????? ???
????????? ??? ?????? ?????????? ??? ?????? ?????????? ? «?????????» ????, ??? ??????
????? ??? ?????????? ???, ?????? ?? ?????? ??? ?????? ?????????? ??? ?????? ???
????????? ? ??????.

28. ??? ?? ?????? ??? ?????? ?????????? ???, ?? ?????? ??? ?????????? ?? ?? ?? ??????????
????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? 17,
????????? 1 ??? 2, ??? ?????? ??????. ?? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

???? ??????? ??? ?? ?????????? ??? ????? ? ?? ?????????????? ??? ?????, ???
????????????? ??? ?????? ?????? ?????? ?????? ??? ??? ?????? ?? ?????? ??????
????? ??? ?????? ?????? ?????? ?????? (10).

29. ??? ?? ?? ????????, ? ?????? BLP Group (11) ?????? ???, ?????? ??? ??
????????? ??? ?????????? ???, ? ?????????? ??? ?????? ???, ?????????? ???
????? ?????????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ???
???, ??? ?????? ?? ?????? ??? ?????????? ???, ?????? ??? ?? ?????? ???
????????? ??? ?????? ??? ?????? ?????? ?????????? ?????? ??????.

? – ?? ?????????? ??? ?????? ??? ?????????????? ?????????? ??????

30. ??? ?????? 11 ??? ?? ?????? ?????????? ?????? ??? ? ??? ?????? ?????? ??????????????
??? ?? ?????? 91/680/???, ?????????? ?? ?????????? ? ??????????, ??? ?? ??????
??? ?????????? ??? ?????? ??? ?????????? ???, ??? ?????? ?????? ?????????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ?????????? ???, ?? ?? ?????????? ???
????????? ??? ?????? ??? ?????? ??????????. ??????, ?????? ??? 31 ?????????? 1992 (???)
????? ??? ??? ?????????? ???) ??? ?????? ??? ?? ?????????? ??????????, ??????????
??? ?? ?????????? ???, ? ?????? ?????? ???, ? ?????? ??? ?????? ??? ?????????? ???
???? ??????????. ??? ?? ??? ?????, ?? ?????? 28?, ?, ??????? ??, ?????? ??? ??????
???? ?????????? ?????? ??? ?? ?????????? ??? ?? ?????????? ??? ?????? ??????
??? ?????? ??? ?????? ??????.

31. ???????, ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????????? ??? ?????? ???????,
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???????
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???, ??? ?
????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?
????????? ??? ?????? ?????????? (????? 28?, ??????? 1, ??????? ??, ??? 28?, ?,
????????? 1, ??? ?????? ??????).

32. ?? ??????? ??? ?????? ?????????????? ??? ?? ?????? ???, ?? ?? ?????????? ??? ??????
??? ?? ?????? ???, ? ?????????? ??? ?????????? ??? ?????? ??? ?????????? ???
????????? ??? ?? ?????? ??? ?????? ???, ?????????? ??? ?? ?????? ???
????????? ??? ?????? ??? ?????????? ???, ??? ?? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????????? ???.

33. ?? ??? ?? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????
????????? ???, ???????, ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ???
??????, ?? ?????????? ? ?????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ???
(????? 28?, A, ??????? ??), ?????? ? ?????? ?????????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? (????? 28?, A, ??????? ??),
??? ? ?????????? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ???????.

34. ???' ?????? ??? ?????? ?????????????? ?????? ?? ?????? 17, ?????????? 3, ?????????? ??,
???? ?????????? ??? ?? ?????? 28??, ??????? 1, ?? ?????? ?????? ??? ??????????
???? ??? ?????? ?????? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????? ???
???? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???.

? – ??? ?????????? ?????????? ???????

35. ? ?????????? ?????? ???, ? ?????? ?????? ??? ?????? ?????????? ??? ?????? ???

?????????? ???????????, ??? ?????? ??? ? ????????, ?????? ??? ?????? 13 ??? ????
???????, ?????????? ?? ?? ??? ??? ?????.

36. ?? ?? ??? ?????????????? ???????? ??? ?? ??? ?????????? ?????? ??? ??? ??? ??
????????? ?? ?????? ??? ?? ?????????? ?????? ??? ?????????? ??? ?????? ? ??????????????
????? ???? ?????????? ??? ??, ?? ?????????????? ?????? ?????????? ?????? ??? ??????
????????????? ??? ?? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ??? ?? ??????
????????????? ??? ?? ?????? ?????? ?????????? (13), ? ?????? ??? ?????? ??? ??
????????????? ??? ?? ?????? ?????? ?????????? ?????? ??? ?????????? ??? ?????? ?? ??????
????????????? ??? ?? ?????? ?????????? ?????? (14), ??????????????
??? ?????????? ??? ?????? ?????????? ?????? ??? ?????????????? ??? ?? ?????? ???
????????? ??? ?? ?????? ?????????? (15).

37. ?? ??? ?????: ? ??????? ??? ?? ??? ?? ??????? ??????? ?????? ??? ??
????????????? ?????????????? ??? ?? ?????? ??? ?????????? ?????? ?????????? ??? ??
??? ?????? ?????? - ???' ?????? ??? ?????? ?????? ?????????? ?? ??????? ??? ?? ??????
????? ? ??????? ??? ?? ?????????? ??? ?????? 28?, B, ??????? ??, ?????? ??? ??
????????????? ?????????? ??? ?????? ??? ?????? ? ?????????? ??? ?????????? ??? ??
????????????? ??? ?? ?????? ???, ??? ?????? ???, ??? ?????????? ?? ?????? 17, ?????????? 3,
????????? ??, ??? ?? ?????? ??? ?????????? ??? ?????????????? ??? ?????????? ??? ??
????????? ??? ?????? ??? ?????????? ??? ??.

38. ?????? ?????????? ??? ?? ??????? ?? ??? ?????? 17, ?????????? 3, ?? ????
????????? ?????????? ?? ??????? ?? ?????? ?????? ??? ?????????? ?????? ??? ??
????????? ?????? 13, B, ??? ? ?????? ?????????? ?? ??????
??? ??????????. ?? ?? ??? ?????? ?????? ?? ?? ??? ?????? ??, ??? ??????????????
Eurodental ??? ? ?????????? ?????????, ?? ?????????? ?????, ??? ??? ?????????? ???
?????????, ?????????????? ?? ?????????? ?????? ??? ?? ?????? 17, ?????????? 3,
????????? ??.

39. ? ??????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?????? ?????????????? ??? ??
??? ?????? ??? ?????? ?????????? ?????? ?????? ?????????? ?????????? ??????????,
????????????? ?? ?????????? ??? ? ?????????? ?????? ?????????? ?????????? ??? ??
Eurodental ?? ?????????? ?????? ??? ?????? ?????? ?????? ??? ?????????? ??? ??
????????????? ?????? ??? ?????????? ?????? ??? ?????? ??? ?????????? ??? ??
????? ??? ?? ?????????? ?? ?????????? ??? ?? ?????? ??? ?????????? ??? ??
????? ??? ?? ?????? ??? ?????? ?????? ??? ?????? ??? ?????????? ??? ??
?????????????.

40. ? ?????????? ?????????? ??? ?? ?????????? ???, ??? ?? ?????? ??? ?????? 28,
????????? 3, ??????? ??, ??????? ?? ?? ?????????? ?? ?????? ??? ?? ?????? ??? ??
????????? ?????????? ?? ??? ?????? ?????? ?????????? ?? ?????????? ?????????? ??? ??
????????? ?????? ??? ?????????? ?????? ?????? ?????? ??? ?? ?????? ?????????? ??? ??
????????? (16). ?? ?????????? ???, ???, ?? ?????? ?????????? ??? ?? ?????? ??????????
????? ?????????? ??? ?????? ?????? ?????? ?????, ?????????? ??? ?????? ?????? ??? ??
????????? ??? ?? ?????????? ?????? ?????? ??? ?? ?????? ?????? ??????????
????????? ?????? ??? ?????? ?????? ?????? ?????? ??? ?? ?????? ?????????? (17). ??? ??
????????? ?? ??? ?????? ?????? ?????? ?????? ?????? ?? ??? ?????? ??? ?????????? ??? ??
??? ?????? ??? ?????????? ?????? ?????? ??? ?? ?????? ?????? ??? ?????? ??????????
????? ?????????? (18), ? ?????? ?? ?????? ?? ?????? ?????? ?????? ?????? ??? ??
?????, ??? ?????????? ?????? ?????? ??? ?????????? ??? ?? ?????????? ?????? ??? ??

?????????? ???????.

41. ??? ???????????? ??? ?? ?????????? ??????, ??? ??? ????? ??? ????? ??? ??? ??? ???
??? 1? ?????????? 1993, ??????? ??? ??? ?????? ?????????? ?????????? ??? ??????????????????
???? ??? ??? ?????????? ???, ??? ?????? ????? ?? ?????? ?????????? ?????????? ??????, ???
??? ?????? ?????? 15, ?????????? 3, ??? 17, ?????????? 3, ?????????? ?, ???
????? ??????.

42. ???????, ??? ?????????????? ?????????????? ?????? ??? ?????????? ???????
????????? ??? ?????????? ???, ??? ?????????? ??? ?????????? ?????????? ??? ??????????
??? ?????, ? ?????????? ?????? ?????????? ??? ?????? ??? ?????? ?????????? ??? (19).

VI – ???????

43. ?????? ??? ??????, ??????? ??? ?????????? ?? ?????????? ??? ?????????? ???
????????? ??? ?????? ?? Cour d'appel ??? ?????? ?????????? ??? ??????????????, ?? ???:
«?? ?????????? ??? ?????? ?? ?????????? ?????????? ??? ?????? ?????????? ?? ?????? 13, A,
????????? 1, ??????? ??, ??? ?????? ?????? 77/388/???, ??? ??????????, ??? 17?? ????
1977, ??? ?????????? ??? ?????????? ??? ?????? ???, ??? ?????????? ?? ??? ?????? ???
????? ?????? – ??? ?????? ?????? ??? ?????????????? ????: ?????????? ??????????
????, ?????????? ??? ?????? ??? ?????????? ???, ??? ?????? ??? ?????????? ???
????????????? ??? ?????? ??? ?????????? ??? ?? ?????? 15, ?????????? 1, 2 ??? 3 (???
????? ??? ?????? ??? ??? ?????? ??? ?????? 91/680/???, ??? 28?, A, ?????????? ?, ???,
?? ?? ?????, ??? ?????????? ??? ?????? ??? ?????? ??? ?? ????? 17.»

1 – ?????? ??? ??????????: ? ???????.

2 – ??? ?????? 77/388/???, ??? ??????????, ??? 17?? ??? 1977, ??? ?????????? ???
????????? ??? ?????? ???, ??? ?????? ?? ??? ?????? ?????? ?????? ?????? – ???
????? ?????? ?????????? ????: ?????????? ?????????? ??? (EE ???. ???. 09/00 1, ?. 49).

3 – ? ?????? ??? ?????? ?? ??? ?????? 91/680/???, ??? ??????????, ??? 16?? ??????????
1991, ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ?????????? ??? ?? ???
??????????, ?????? ??? ?????????? ??? ?????????? ??? ???????, ??? ?????? 77/388/???
(?? L 376, ?. 1).

4 – ? «????? ??????» ?????? ?????????????? ????????, ??? ?????? ??????????
????? ?? ?????????? ??? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? (????? 6 ???
????? ??????).

5 – BGBI. 1991, ?. 351.

6 – ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????????? ? ?????? ??? 16??
????????? 2004, C-382/02, Cimber Air (????? 2004, ?. I-8379), ?????? ??? «? ??????
????????? ?????? ?????? ??? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ?????? ?????? ?
??? ???????????. ?????????? ?? ?????? ? «?????» ?????? ?????? ??? ?????? ??
????????? –????? ??? ?? ?????????? ??? ?????? ??????–, ?? ?????? ?????? ??? ?????? ??
????????? ?????? ?????? ??? ?????? ??? ??????» (????? 17).

7 – ? ?????, ?????? ??? ?????? ?????????? ?????? ??? ?????? 91/680 ?????????? ???
????? ????.

8 – Mémorial A ???? 11 ??? 19?? ?????????? 1979, ?, 186.

9 – ? ?????????? ??? Eurodental ??????????, ????, ??????? ?? ?? ?????????????????
??????????, ??? ??????????? ??? ?? ?????????? ?????????????? ??????????.

11 - ??????? ?? 6?? ??????? 1995, C-4/94 (?????? 1995, ?. I-983).

12 – ??? ??????? ??, ?? ?????????? ??, ?? ??????????????? ??, ?? ?????????? ??
????????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????? ??, ?? ?????? ??, ??
??????????, ??, ??, ??, ??, ??, ??, ??, ??, ??, ??, ??, ??, ??, ??, ??, ??.

13 – ????? ???. ??????? ??????????, ? ?????????????? ???. ????? ???. ??????? ???. ??????? ???.
????????????? ???. ??????? ???. ??????? ???. ??????? ???. ??????? ???. ??????? ???. ??????? ???.
?????? ???. ??? ?????????? ???. ??????? ???. ?????????????? ???. ??????? ???. ?????????? ???.
?????? ???.

15 – ? ??????? ?? 26?? ??????????? 1996, C-302/93, Debouche (?????? 1996, ?, I-4495),
??? ?????? ? ????? ?? 19, ??? ??????? ?? ?????????????? ??? ?????????? ??????????????????
????????????? ?? ?????????????? ?? ?????????????? ??? ?????????? ??? ?? ?????????? ??
????????? ??? ??, ?? ?? ??????? ?? ??? ?? ?????????????? ??? ?????? ??.

17 – ? ??????? ?? 7?? ??????? 2002, C-169/00, ??????? ?? ????????????, (?????? 2002, ?. I?2433), ??????????, ??? ????? 30, ??? ?? ?????????? ??? ?????????????? ??? ????? ?? ??????? 28, ?????????? 3, ??? ?????? ??? ????? ?????? ??? ???.

18 – ?????? ?????? ??? ????? –?? ?????? ??? ? ????????– ?????????????? ??? ??? ?????.

19 – ??? ?? ??? ??????? ? ??????? ?????????????? ?????, ??? ?????????????? ?????? ??? ??????? 29 ??? ????? ??????, ??? ??? 60? ?????????? ???, ??? 20 ??? 21 ?????? 2000 (TAXUD/1876/00 – Rév. 1, Comité de la TVA, Orientations de la 60ème réunion, 20 et 21 mars 2000).