

Action brought on 15 January 2019 — Karlovarské minerální vody v EUIPO — Aguas de San Martín de Veri (VERITEA)

(Case T-28/19)

(2019/C 82/78)

Language in which the application was lodged: Czech

Parties

Applicant: Karlovarské minerální vody a.s. (Karlovy Vary, Czech Republic) (represented by: J. Mrázek, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Aguas de San Martín de Veri, SA (Bisaurri, Spain)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant in the proceedings before the General Court

Trade mark at issue: Application for registration of the European Union trade mark VERITEA — Application No 15 592 876

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 8 November 2018 in Case R 499/2018-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- reject the opponent's opposition;
- order EUIPO to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 15 January 2019 — CRIA and CCCMC v Commission

(Case T-30/19)

(2019/C 82/79)

Language of the case: English

Parties

Applicants: China Rubber Industry Association (CRIA) (Beijing, China) and China Chamber of Commerce of Metals, Minerals & Chemicals Importers & Exporters (CCCMC) (Beijing) (represented by: R. Antonini, E. Monard and B. Maniatis, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul Commission Implementing Regulation (EU) 2018/1579 of 18 October 2018 imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of certain pneumatic tyres, new or retreaded, of rubber, of a kind used for buses or lorries, with a load index exceeding 121 originating in the People's Republic of China and repealing Implementing Regulation (EU) 2018/163, in so far as it relates to the applicants and their relevant members; and
- order the Commission to bear the costs of these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that by making the injury analysis on the basis of the 'weighted' data of the sampled companies, the contested Regulation violates Articles 3(1), (2), (5) and (8) and 17 of the Regulation (EU) 2016/1036 of the European Parliament and of the Council ('basic Regulation').⁽¹⁾ Even if assuming the weighting would be allowed, the way in which it was done results in violations of Articles 3(2), (3) and (5) and 9(4) of the basic Regulation.
2. Second plea in law, alleging that the inclusion of retreaded tyres does not allow the Commission to obtain any basis to logically progress its inquiry, in violation of Articles 3(1), (2), (5), (6) and 4(1) of the basic Regulation. The injury and causation analysis that ignores the segmentation between new and retreaded tyres is not based on positive evidence and does not amount to an objective examination in violation of Article 3(2), (5) and (6) of the basic Regulation.
3. Third plea in law, alleging that the assessment of the price effects (price undercutting and underselling) and determination the injury elimination level violates Articles 3(2), 3(3) and 9(4) of the basic Regulation, by failing to take into account the significantly higher cost per kilometre of a new tyre as compared to a retreaded tyre and by relying on constructed export prices.
4. Fourth plea in law, alleging that the incoherencies, inconsistencies and absence of a positive and/or objective evidentiary basis of the causation analysis violates Articles 3(2) and (6) of the basic Regulation. The contested Regulation also fails to appropriately examine other known factors to ensure that the injury caused by those other factors is not attributed to the dumped imports contrary to Article 3(2) and (7) of the basic Regulation.
5. Fifth plea in law, alleging that the Commission violated the rights of defence of the applicants and Articles 6(7), 19(1), 19(2), 19(3), 20(2), 20(4) of the basic Regulation by failing to disclose and provide the Applicants with access to information relevant to the injury and dumping determinations.
6. Sixth plea in law, alleging that the adjustment for indirect taxes violates Article 2(10)(b) and 2(7)(a) of the basic Regulation.

⁽¹⁾ Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union (OJ L 176, 30.6.2016, p. 21).