

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

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs);
- order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: three-dimensional mark representing the shape of a box, for goods and services in Classes 28 and 35

Decision of the Examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Misinterpretation of Article 7(1)(b) of Regulation No 207/2009

Action brought on 15 October 2013 — Aderans v OHIM — Ofer (VITALHAIR)

(Case T-548/13)

(2013/C 367/62)

Language in which the application was lodged: German

Parties

Applicant: Aderans Company Ltd (Tokyo, Japan) (represented by: M. Graf, lawyer)

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

Other party to the proceedings before the Board of Appeal: Gerhard Ofer (Troisdorf, 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 August 2013 in Case R 1467/2012-1;
- 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 'VITALHAIR' for goods in Classes 3, 21 and 26 — Community trade mark application No 7 254 378

Proprietor of the mark or sign cited in the opposition proceedings: Gerhard Ofer

Mark or sign cited in opposition: the Community word mark 'Haar-Vital' and the German figurative mark 'HAARVITAL' for goods and services in Classes 3, 26 and 44

Decision of the Opposition Division: the opposition was upheld in part

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Articles 42(2) and (3) and 8(1)(b) of Regulation (EC) No 207/2009

Action brought on 14 October 2013 — France v Commission

(Case T-549/13)

(2013/C 367/63)

Language of the case: French

Parties

Applicant: French Republic (represented by: G. De Bergues, D. Colas and C. Candat, acting as Agents)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul Commission's Implementing Regulation (EU) No 689/2013 of 18 July 2013 fixing the export refunds on poultrymeat;
- order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging infringement of the obligation to state reasons, in so far as the Commission's reasoning was not clear and unequivocal and, consequently, it did not allow the interested parties to know the reasons for the contested regulation. The applicant claims that:
 - first, obligation to state reasons for the contested regulation was even more fundamental because the Commission had, for the adoption of the contested regulation, a wide discretion and,

— secondly, the Commission was bound to develop its arguments in a clear manner where, by fixing export refunds on poultrymeat at a zero rate, the contested regulation went significantly further than the previous regulations in that sector.

2. Second plea in law, divided into two parts, alleging infringement of Article 164(3) of the Single CMO Regulation⁽¹⁾ by considering that the market situation and the national and international situation at the time the contested regulation was adopted justified fixing export refunds on poultrymeat at a zero rate. The applicant claims that:

- the Commission carried out a manifestly erroneous assessment of the market situation;
- the Commission manifestly infringed the limits of its discretion by taking into account, for the adoption of the contested regulation, the recent reform of the Common Agricultural Policy and the ongoing negotiations in the context of the WTO, which are matters not included among those exhaustively listed in Article 164(3) of the Single CMO Regulation.

⁽¹⁾ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (Single CMO Regulation) (OJ 2007 L 299, p. 1).

Action brought on 15 October 2013 — Radecki v OHIM — Vamed (AKTIVAMED)

(Case T-551/13)

(2013/C 367/64)

Language in which the application was lodged: German

Parties

Applicant: Michael Radecki (Cologne, Germany) (represented by: C. Menebröcker and V. Töbelmann, lawyers)

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

Other party to the proceedings before the Board of Appeal: Vamed AG (Vienna, Austria)

Form of order sought

— Annul the decisions of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 18 July 2013 (Case R 365/2012-1);

— order OHIM to bear its own costs and to pay the applicant's costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Michael Radecki

Community trade mark concerned: Word mark 'AKTIVAMED' for goods and services in Classes 5, 11 and 44 — Community trade mark No 8 958 886

Proprietor of the mark or sign cited in the opposition proceedings: Vamed AG

Mark or sign cited in opposition: Austrian figurative marks and international registration 'VAMED' for goods and services in Classes 8, 9, 10, 11, 12, 16, 20, 21, 28, 35, 36, 37, 39, 41, 42, 43, 44 and 45

Decision of the Opposition Division: Opposition dismissed

Decision of the Board of Appeal: Decision of the Opposition Division annulled

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

Action brought on 17 October 2013 — European Dynamics Luxembourg and Evropaiki Dynamiki v European Joint Undertaking for ITER and the Development of Fusion Energy

(Case T-553/13)

(2013/C 367/65)

Language of the case: English

Parties

Applicants: European Dynamics Luxembourg SA (Ettelbrück, Luxembourg); and Evropaiki Dynamiki — Proigmena Systimata Tilepikoinonion Pliroforikis kai Tilematikis AE (Athens, Greece) (represented by: D. Mabger, lawyer)

Defendant: European Joint Undertaking for ITER and the Development of Fusion Energy

Form of order sought

The applicant claims that the Court should:

— Annul the defendant's award decision dated 7 August 2013 in relation to the open Call for Tenders F4E-ADM-0464 (OJ 2012/S 213-352451) for the award of the Framework Service Contract in cascade entitled 'Provision of Information and Communications Technology (ICT) Projects to Fusion for Energy' (OJ 2013/S 198-342743);