

**Action brought on 24 May 2007 — Promomadrid  
Desarrollo Internacional de Madrid v OHIM  
(MADRIDEXPORTA)**

(Case T-180/07)

(2007/C 155/74)

*Language of the case: Spanish*

**Parties**

*Applicant:* Promomadrid Desarrollo Internacional de Madrid, S.A. (Madrid) (Represented by: M. Aznar Alonso, lawyer)

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

**Forms of order sought**

- A declaration that the decision of the First Board of Appeal of OHIM, of 7 March 2007, in which it rejected the application No 4.659.553 for registration of the composite Community trade mark MADRIDEXPORTA, in classes 16, 35, 36, 38, 39, 41 and 42 does not comply with Council Regulation (EC) 40/94 on the Community Trade Mark.
- A declaration that Article 7(1)(c) of Regulation No 40/94 does not apply to composite Community trade mark MADRIDEXPORTA NO 4.659.553, and that Article 7(3) of Regulation No 40/94 applies instead.
- Order the defendant and, if appropriate, the intervener, to pay the costs.

**Pleas in law and main arguments**

*Community trade mark applied for:* Composite mark 'MADRIDEXPORTA' (application No 4.659.553), for goods and services in classes 16, 35, 36, 38, 39, 41 and 42.

*Decision of the examiner:* Reject the application.

*Decision of the Board of Appeal:* Reject the appeal.

*Pleas in law:* Incorrect application of Article 7(1)(c) and Article 7(3) of Council Regulation (EC) No 40/94 on the Community Trade Mark.

**Action brought on 28 May 2007 — Poland v Commission**

(Case T-183/07)

(2007/C 155/75)

*Language of the case: Polish*

**Parties**

*Applicant:* Republic of Poland (represented by E. Ośniecka-Tamecka, Agent)

*Defendant:* Commission of the European Communities

**Form of order sought**

- annul, on the basis of Article 230 EC, in whole or in part, Commission decision C(2007) 1295 final of 26 March 2007 concerning the national allocation plan for greenhouse gas emission allowances notified by Poland in accordance with Directive 2003/87/EC of the European Parliament and of the Council;
- give judgment in Polish in accordance with Article 35(2) of the Rules of Procedure of the Court;
- order the Commission to pay the costs incurred by Poland.

**Pleas in law and main arguments**

The applicant seeks annulment of Commission Decision C(2007) 1295 final of 26 March 2007 concerning the national allocation plan for greenhouse gas emission allowances notified by Poland in accordance with Directive 2003/87/EC of the European Parliament and of the Council<sup>(1)</sup>, in which the Commission decided that certain aspects of the Polish National Allocation Plan for CO<sub>2</sub> Emission Allowances for 2008-2012, notified to the Commission on 30 June 2006, were not compatible with Articles 9(1) and (3), 10 and 13(2) of and the criteria set out in Annex III to Directive 2003/87/EC. That decision sets the average annual allocation of emission allowances in Poland for 2008-2012 at approximately 208.5 million tonnes of carbon dioxide equivalent. It thereby reduces by 26.7 % the carbon dioxide emission limit of 284.6 million tonnes in 2008-2012 proposed by Poland in the national allocation plan for emission allowances notified to the Commission.

The applicant submits, as grounds of the application, that the Commission, by taking the decision after the expiry of the three-month period for rejection of the national allocation plan notified by Poland in whole or in one aspect of it, infringed Article 9(3) of Directive 2003/87/EC. The applicant thereby complains that the Commission breached essential procedural requirements and exceeded its powers.

The applicant moreover complains that the Commission, when assessing the national allocation plan for allowances for 2008-2012 submitted by Poland, unjustifiably failed to assess the facts submitted by Poland in the national allocation plan and replaced an analysis of those facts by an analysis of its own facts obtained as a result of the inconsistent application of the model of economic analysis chosen by the Commission, and thereby infringed Article 9(1) of Directive 2003/87/EC and criterion 3 set out in Annex III to Directive 2003/87/EC. The applicant thereby complains that the Commission infringed essential procedural requirements.

In addition, the applicant complains that the Commission breached essential procedural requirements, and asserts that, by failing to take account when adopting the contested decision of international decisions binding on the Community (in particular the Kyoto Protocol), it infringed criteria 1, 2 and 12 set out in Annex III to Directive 2003/87/EC.

The applicant further criticises the Commission for unjustifiably limiting, in the contested decision, the possibility of transferring CO<sub>2</sub> emission allowances from the first period (2005-2007) to the second (2008-2012), thereby infringing Articles 9(3) and 13(2) of Directive 2003/87/EC. The applicant thereby raises a complaint of exceeding of powers by the Commission.

The applicant further complains that the Commission infringed essential procedural requirements in connection with the fact that the applicant did not have before it, before the decision was taken, the actual grounds on which the Commission proposed to take its decision. Consequently, according to the applicant, it was not in a position *inter alia* to assess the compatibility of the contested decision with Article 175(2)(c) EC in conjunction with Article 7(1) EC.

Finally, the applicant submits that, by taking the decision without any previous consultations with it, and also by not taking Poland's specific energy balance into account, the Commission may by the contested decision affect the applicant's energy security, and it thereby exceeded its powers.

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(<sup>1</sup>) Directive 2003/87/EC of the European Parliament and of the Council of 13 October 2003 establishing a scheme for greenhouse gas emission allowance trading within the Community and amending Council Directive 96/61/EC (OJ L 275, 25.10.2003, p. 32).

**Order of the Court of First Instance (First Chamber) of  
11 May 2007 — Daishowa Seiki v Tengelmann  
Warenhandelsgesellschaft (BIG PLUS)**

(Case T-438/05) (<sup>1</sup>)

(2007/C 155/76)

*Language of the case: English*

The President of the Court of First Instance (First Chamber) has ordered that the case be removed from the register.

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(<sup>1</sup>) OJ C 96, 22.4.2006.

**Order of the Court of First Instance (Second Chamber) of  
22 May 2007 — Marie Claire v OHIM — Marie Claire  
Album (MARIE CLAIRE)**

(Case T-148/06) (<sup>1</sup>)

(2007/C 155/77)

*Language of the case: Spanish*

The President of the Court of First Instance (Second Chamber) has ordered that the case be removed from the register.

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(<sup>1</sup>) OJ C 190, 12.8.2006.