

*Trade mark at issue:* Community figurative mark containing the word element 'MEISSEN' — Application No 9 413 527

*Procedure before OHIM:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of OHIM of 29 September 2014 in Cases R 1182/2013-4 and R 1245/2013-4

### **Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order the defendant to pay the costs.

### **Pleas in law**

- Infringement of Article 8(5) of Regulation No 207/2009;
- Infringement of Article 8(1)(b) of Regulation No 207/2009;
- Infringement of Article 8(1)(b) of Regulation No 207/2009;
- Infringement of Article 8(1)(b) of Regulation No 207/2009;
- Infringement of Article 8(1)(b) of Regulation No 207/2009;
- Infringement of Article 15(1) of Regulation No 207/2009.

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## **Action brought on 26 December 2014 — Slovak Telekom v Commission**

**(Case T-851/14)**

(2015/C 127/42)

*Language of the case: English*

### **Parties**

*Applicant:* Slovak Telekom a.s. (Bratislava, Slovak Republic) (represented by: D. Geradin, lawyer, and R. O'Donoghue, Barrister)

*Defendant:* European Commission

### **Forms of order sought**

The applicant claims that the Court should:

- declare the action admissible;
- annul articles 1 and 2 of the contested decision so far as it affects the applicant;
- in the alternative, reduce the fine imposed on the applicant by article 2 of the contested decision;
- order the Commission to bear the costs of the proceedings;
- in the event the Court rejects the action as inadmissible or dismisses it on substance, order each party to bear its own costs.

**Pleas in law and main arguments**

By its present action, the applicant seeks the annulment of the Commission's decision of 16 October 2014 (AT.39523 — Slovak Telekom) fining the applicant and its parent for abusive conduct in Slovak broadband market pursuant to Article 102 TFEU and Article 54 of the EEA Agreement.

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

1. First plea in law, alleging that the Commission made errors of law and a manifest error of assessment in finding that the applicant committed an abusive refusal to supply.
2. Second plea in law, alleging that the Commission violated the applicant's rights of defence in respect of its margin squeeze assessment. The applicant submits that:
  - the Commission failed to set out its reasoned objections to certain relevant cost principles, methodology and data put forward by the applicant until the contested decision; and
  - the Commission put forward for the first time in the contested decision a new 'multi-period' approach to overturn what was previously a positive margin for 2005 into a negative one.
3. Third plea in law, alleging that the Commission made errors of facts and/or law and/or a manifest error of assessment in finding that the applicant's conduct constituted a margin squeeze. The applicant contends that:
  - the Commission misapplied the long-run average incremental cost ('LRAIC') principles, methodology and data and ignored the applicant's efficient LRAIC costs; and
  - the Commission committed legal errors and/or made manifest errors of assessment under its 'multi-period' approach.
4. Fourth plea in law, alleging that the Commission made errors of law and a manifest error of assessment in that it concluded that the applicant and Deutsche Telekom are part of a single undertaking and that they are both liable for the applicant's alleged infringement.
5. Fifth plea in law, the Commission made errors of law and a manifest error of assessment and breached the principle of equal treatment in the determination of the amount of the fine.

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**Action brought on 2 February 2015 — Germany v Commission****(Case T-47/15)**

(2015/C 127/43)

*Language of the case: German***Parties**

*Applicant:* Federal Republic of Germany (represented by: T. Henze, K. Petersen and T. Lübbig, lawyer)

*Defendant:* European Commission