

COURT OF FIRST INSTANCE

Judgment of the Court of First Instance of 13 September 2005 — Ricosmos BV v Commission

(Case T-53/02) ⁽¹⁾

(Customs law — External Community transit operation concerning cigarettes — Fraud — Application for remission of import duties — Regulation (EEC) No 2913/92 — Regulation (EEC) No 2454/93 — Equity clause — Compliance with time-limits — Rights of the defence — Principle of proportionality — Concept of obvious negligence)

(2005/C 257/13)

Language of the case: Dutch

Parties:

Applicant(s): Ricosmos BV (Delfzijl (Netherlands)) [represented by initially M. Chatelin, M. Fleers and P. Metzler, then by J. Hertoghs, lawyers,]

Defendant(s): Commission of the European Communities [represented by initially M. van Beck and R. Tricot, then by M. van Beck and B. Stromsky, Agents,]

Application for:

annulment of Commission Decision REM 09/00 of 16 November 2001 declaring that the remission of import duties in favour of the applicant which is the subject-matter of the application submitted by the Kingdom of the Netherlands is not justified

Operative part of the judgment:

The Court:

- 1) Dismisses the application;
- 2) Orders the applicant to bear its own costs and those of the Commission.

⁽¹⁾ OJ C 118, 18.5.2002.

Judgment of the Court of First Instance of 13 September 2005 — Sportwetten GmbH Gera v OHIM

(Case T-140/02) ⁽¹⁾

(Community trade mark — Application for a declaration of invalidity — Figurative Community trade mark including the word element INTERTOPS — Mark contrary to public policy or to accepted principles of morality — Article 7(1)(f) and (2) and Article 51 of Regulation (EC) No 40/94)

(2005/C 257/14)

Language of the case: German

Parties:

Applicant(s): Sportwetten GmbH Gera (Gera, Germany) [represented by: A. Zumschlinge, lawyer]

Defendant(s): Office for Harmonisation in the Internal Market (Trademarks and Design) [represented by: D. Schennen and G. Schneider, acting as Agents]

Intervener(s): Intertops Sportwetten GmbH (Salzburg, Austria) [represented initially by H. Pfeifer, and subsequently by R. Heimler, lawyers]

Application for:

ACTION brought against the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 February 2002 (Case R 338/2000-4), relating to an application for a declaration of invalidity of the figurative Community trade mark INTERTOPS

Operative part of the judgment:

1. There is no need to adjudicate on the applicant's application for a declaration that the figurative Community trade mark including the word element INTERTOPS is invalid, or on the intervener's application for a document to be added to the file.
2. The remainder of the action is dismissed.
3. The applicant is ordered to pay all the costs.

⁽¹⁾ OJ C 169, 13.7.2002