

- misuse of powers and manifest error of assessment on the part of the Commission;

It is noted in that respect that, for the purpose of attaining the objective pursued by Regulation No 2777/75, the Commission ought to have adopted exceptional measures to support the Italian market in poultrymeat, by far the most affected avicultural sector in Italy. By contrast, despite the repeated request put forward by the applicant, the Commission refused to do so, merely granting support measures in favour of the egg-laying sector, the least affected in Italy by restrictive measures and, essentially, the only one affected in the Netherlands. In so doing, the Commission clearly intended to allocate the majority of the available resources to Netherlands producers, reducing to a minimum the indemnity granted to Italian producers;

- misinterpretation and infringement of Article 14 of Regulation No 2777/75 and manifest error of assessment.

In the applicant's view, contrary to the view of the defendant, Article 14 of the regulation at issue does not apply only when the imbalances on the market are caused by the fact that it is impossible for producers which are in an area under surveillance and protection to have access to the market outside that area. In fact, the Commission could adopt exceptional support measures to restabilise the market affected by restrictions on free circulation which result from the application of measures intended to prevent the spread of animal disease, irrespective of whether those restrictions relate to products entering or those exiting a particular area;

- lastly, also the breach of the principles of sound administration, impartiality, fairness and transparency.

(¹) OJ L 282 of 1.11.1975, p. 77.

Action brought on 30 April 2007 — Colgate-Palmolive v OHIM — CMS Hasche Sigle (VISIBLE WHITE)

(Case T-136/07)

(2007/C 140/64)

Language in which the application was lodged: English

Parties

Applicant: Colgate-Palmolive Co. (New York, United States) (represented by: M. Zintler, H. Harmeling and K.-U. Plath, lawyers)

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

Other party to the proceedings before the Board of Appeal: CMS Hasche Sigle (Cologne, Germany)

Form of order sought

- The decision of the Fourth Board of Appeal dated 15 February 2007 shall be annulled;
- the Court shall confirm the decision of the Cancellation Division and declare that the Community trade mark No 802 793 'VISIBLE WHITE' remains registered;
- the applicant receives an award of costs in respect of the request for a declaration of invalidity, a reversal of the award of the costs made in the Board's decision, and an award of costs in respect of this application.

Pleas in law and main arguments

Registered Community trade mark subject of the application for a declaration of invalidity: The word mark 'VISIBLE WHITE' for goods in class 3 — Community trade mark No 802 793

Proprietor of the Community trade mark: The applicant

Party requesting the declaration of invalidity of the Community trade mark: CMS Hasche Sigle

Decision of the Cancellation Division: Rejection of the request for a declaration of invalidity

Decision of the Board of Appeal: Annulment of the Cancellation Division's decision and declaration of invalidity of the Community trade mark

Pleas in law: Infringement of Article 7(1)(b) and (c) of Council Regulation No 40/94 as the Board of Appeal wrongly considered both the element 'VISIBLE' and the element 'WHITE' as descriptive in relation to 'toothpaste' as well as 'mouthwash' and considered the combination as a whole descriptive and devoid of distinctive character.

Action brought on 4 May 2007 — General Technic-Otis v Commission

(Case T-141/07)

(2007/C 140/65)

Language of the case: French

Parties

Applicant: General Technic-Otis Sàrl (Howald, Grand Duchy of Luxembourg) (represented by: M. Nobusch, lawyer)

Defendant: Commission of the European Communities