Decision of the Board of Appeal: Dismissal of the appeal.

Pleas in law: Incorrect application of Article 8(1)(b) of Regulation (EC) No 40/94 [1] since there is no likelihood of confusion between the signs in dispute.

[1] Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

Action brought on 17 December 2007 — Hangzhou Duralamp Electronics v Council

(Case T-459/07)

(2008/C 51/89)

Language of the case: English

Parties

Applicant: Hangzhou Duralamp Electronics Co., Ltd (Hangzhou City, China) (represented by: M. Gambardella and V. Villante, lawyers)

Defendant: Council of the European Union

Form of order sought

— Annulment of Council Regulation (EC) No 1205/2007 of 15 October 2007 imposing anti-dumping duties on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 and extending to imports of the same product consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines published in OJ L 272/1 of 17 October 2007 in so far as it is applicable to the applicant;

— order the Council to pay the procedural costs.

Pleas in law and main arguments

The applicant, a Chinese company, seeks the annulment of Council Regulation (EC) No 1205/2007 of 15 October 2007 imposing anti-dumping duties on imports of integrated electronic compact fluorescent lamps (CFL-i) originating in the People's Republic of China following an expiry review pursuant to Article 11(2) of Council Regulation (EC) No 384/96 and extending to imports of the same product consigned from the Socialist Republic of Vietnam, the Islamic Republic of Pakistan and the Republic of the Philippines [1] in so far as these measures apply to the applicant.

In support of its application, the applicant contends that the Council's view that all CFL-i were the same product no matter their differences like lifetime, wattage, cover, other integrated devices, length, diameter, diagonal or end user, is incorrect.

The applicant further alleges that the Council committed a manifest error of assessment when calculating the dumping margins, undercutting margins and injury thresholds. The methodology by which data was extrapolated from Eurostat data was, according to the applicant, not explained in the contested regulation and the Council should have provided the parties to the investigation with a non-confidential summary of the methodology used and examples of calculations.

Moreover, the applicant submits that its right to be heard with regard to the choice of the analogue country has been violated, as the applicant was not given the possibility during the investigation leading up to the adoption of the contested regulation to comment on the substitution of Mexico by Korea as the analogue country.

Furthermore, the applicant claims that the Council breached Articles 7, 9 and 21 of the Basic Regulation [2] by imposing anti-dumping duties when the Community interest did not call for intervention.

Finally, the applicant submits that the Council breached Article 5(4) of the Basic Regulation and committed a manifest error of assessment by imposing anti-dumping duties despite the fact that the complaint initiating the investigation was not supported by the Community industry since the part of Community producers opposing the complaint represented more than 50 % of the total Community production of the like product.

[1] OJ 2007 L 272, p. 1.
[2] Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996 L 56, p. 1).

Action brought on 18 December 2007 — Nokia v OHIM — Medion (LIFE BLOG)

(Case T-460/07)

(2008/C 51/90)

Language in which the application was lodged: English

Parties

Applicant: Nokia Oyj (Helsinki, Finland) (represented by: J. Tanhuanpää, lawyer)