

The applicants further allege that the Council committed an error of law in relying on Article 9(1) of the Basic Regulation in a situation that does not fall within the scope of that article, as the complaint leading to the investigation had not been withdrawn.

Finally, the applicants invoke a violation of Article 253 EC in that the contested regulation is inadequately reasoned in respect of the level of support from Community producers and the conclusion on Community interest.

⁽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 21 December 2007 — Wella v OHIM (TAME IT)

(Case T-471/07)

(2008/C 51/98)

Language of the case: English

Parties

Applicant: Wella AG (Darmstadt, Germany) (represented by: B. Klingberg, K. Sandberg, lawyers)

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

Form of order sought

- That the decision of the Second Board of Appeal of 24 October 2007 in Case R 713/2007-2 be annulled;
- that the defendant be ordered to bear the costs of the proceedings including the costs of the appeal proceedings.

Pleas in law and main arguments

Trade mark concerned: The international word mark ‘TAME IT’ for goods in Class 3 (international registration No 879 186) — request for EC territorial extension of protection in accordance with the Madrid Protocol

Decision of the examiner: Refusal on absolute grounds for all the goods applied for

Decision of the Board of Appeal: Partly upheld the appeal and allowed the EC territorial extension of the protection of international registration No 879 186 to proceed in part

Pleas in law: Infringement of Article 7(1)(b) and 7(1)(c) of Council Regulation 40/94.

According to the applicant, the Board of Appeal based its decision on a purely theoretical philological analysis of the mark applied for with regard to grammar, composition and spelling rules as well as structure and syntax of the trade mark applied for, completely leaving aside the overall impression of the mark to the average consumer.

Action brought on 21 December 2007 — Dow AgroSciences and Others v Commission

(Case T-475/07)

(2008/C 51/99)

Language of the case: English

Parties

Applicants: Dow AgroSciences Ltd (Hitchin, United Kingdom), Makhteshim-Agan Holding BV (Rotterdam, Netherlands), Makhteshim Agan International Coordination Center (Brussels, Belgium), Dintec Agroquímica — Produtos Químicos Ld.^a (Funchal, Portugal), Finchimica SpA (Manerbio, Italy), Dow Agrosciences BV (Rotterdam, Netherlands), Dow AgroSciences Hungary kft (Budapest, Hungary), Dow AgroSciences Italia Srl (Milano, Italy), Dow AgroSciences Polska sp. z o.o. (Warszawa, Poland), Dow AgroSciences Iberica SA (Madrid, Spain), Dow AgroSciences s.r.o. (Prague, Czech Republic), Dow AgroSciences LLC (Indianapolis, United States), Dow AgroSciences GmbH (Stade, Germany), Dow AgroSciences Export SAS (Mougins, France), Dow AgroSciences SAS (Mougins, France), Dow AgroSciences Danmark A/S (Lyngby-Taarbæk, Denmark), Makhteshim-Agan Poland sp. z o.o. (Warszawa, Poland), Makhteshim-Agan (UK) Ltd (London, United Kingdom), Makhteshim-Agan France SARL (Sevres, France), Makhteshim-Agan Italia Srl (Bergamo, Italy), Alfa Agricultural Supplies SA (Halandri, Greece) (represented by: C. Mereu and K. Van Maldegem, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Annul the contested decision.
- Order the Commission to take such measures as are necessary to comply with the annulment of the contested decision in accordance with Article 233 EC, including, but not limited to, ordering it to request the Member State competent authorities to reinstate the relevant national trifluralin registrations withdrawn as a result of the contested decision, and extend any relevant deadlines as required to comply with the judgment of the Court.
- Declare the illegality, and inapplicability to the applicants, of Article 3(3) of Regulation (EC) No 850/2004 of the European Parliament and of the Council of 29 April 2004 on persistent organic pollutants and amending Directive 79/117/EEC.