

Pleas in law and main arguments

Registered Community design subject of the application for a declaration of invalidity: Registered Community design for an 'internal-combustion engine' — Community Design No 000 163 290 — 0002

Proprietor of the Community design: The applicant

Party requesting the declaration of invalidity of the Community design: Honda Giken Kogyo Kabushiki Kaisha Co. Ltd

Design of the party requesting the declaration of invalidity: Registered US design in respect for an 'internal-combustion engine' — Patent No D 282 071

Decision of the Invalidity Division: Rejected the application for invalidity in its entirety

Decision of the Board of Appeal: Annulled the decision of the Invalidity Division and declared the design invalid

Pleas in law: Infringement of Articles 4 and 6 of Council Regulation (EC) No 6/2002 on Community Designs

The applicant claims that the freedom of designers of combustion engines is narrowed to designs which fulfil the requirement of functionality. In addition, the industry's state of art being nearly exhausted, it is even more difficult for designers in this field to provide an alternative offering a totally different overall impression without reducing the design's functionality. Hence, according to the applicant, even the slightest details have to be taken into consideration when assessing the individual character of the design.

The applicant further submits that it nevertheless succeeded to maintain functionality as well as technical features of the challenged design, while giving its essential components an individual character.

Appeal brought on 4 January 2008 by M against the order of the Civil Service Tribunal delivered on 19 October 2007 in Case F-23/07, M v EMEA

(Case T-12/08 P)

(2008/C 64/95)

Language of the case: French

Parties

Appellant: M (Broxbourne, United Kingdom) (represented by S. Orlandi, A. Coolen, J.-N. Louis and E. Marchal, lawyers)

Other party to the proceedings: European Medicines Agency (EMA)

Form of order sought by the appellant

- set aside the order of the Civil Service Tribunal of 19 October 2007 in M v European Medicines Agency in Case F-23/07;
- annul the decision of the EMA of 25 October 2006 in so far as it dismisses the request of 8 August to consult the Invalidity Committee;
- annul the decision of the EMA dismissing the request for compensation;
- order the defendant to pay the costs at first instance and on appeal.

Pleas in law and main arguments

In his appeal, the appellant asks the Court to set aside the order of the Civil Service Tribunal dismissing, on the ground that it is inadmissible, the action for annulment of the decision of 25 October 2006 by which the European Medicines Agency dismissed his request to set up an Invalidity Committee.

In support of his appeal, the appellant puts forward a single plea alleging infringement of Community law. He claims that the Civil Service Tribunal has committed an error of interpretation with respect to the scope of his action at first instance and, therefore, it gave a ruling *ultra petita*. He also claims that the Civil Service Tribunal infringed Article 33(1) and (2) of the Conditions of Employment of Other Servants of the Communities.

Action brought on 11 January 2008 — Perfetti Van Melle v OHIM — Cloetta Fazer (CENTER SHOCK)

(Case T-16/08)

(2008/C 64/96)

Language in which the application was lodged: English

Parties

Applicant: Perfetti Van Melle SpA (Linate, Italy) (represented by: P. Perani and P. Pozzi, lawyers)

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