

Pleas in law and main arguments

The applicant seeks partial annulment of Commission Decision C(2007) 5910 final of 5 December 2007 (Case COMP/F/38.629 — Chloroprene Rubber), by which the Commission found that the applicant, together with other undertakings, had infringed Article 81 EC and Article 53 of the Agreement on the European Economic Area by participating in a single and continuing agreement and/or concerted practice in the chloroprene rubber sector.

In support of its application, the applicant submits that the Commission committed manifest errors of assessment of the facts and erred in law in holding the applicant liable for the infringement of the joint venture DuPont Dow Elastomers. According to the applicant, the Commission failed to establish that the applicant had a decisive influence over DuPont Dow Elastomers. Furthermore, the applicant contends that it did not form a single economic unit with DuPont Dow Elastomers.

Moreover, the applicant alleges that the Commission committed a manifest error of assessment of the facts, erred in law and failed to provide adequate reasoning for its decision:

- in using a multiplier for duration of 6.5 even though the duration of the infringement was only six years and one month;
- in increasing the fine to be imposed on the applicant by 10 % for sufficient deterrent effect; and
- in not granting the applicant the maximum available leniency reduction of 30 %.

Action brought on 18 February 2008 — Intesa Sanpaolo v OHIM — MIP Metro (COMIT)

(Case T-84/08)

(2008/C 116/42)

Language in which the application was lodged: English

Parties

Applicant: Intesa Sanpaolo SpA (Torino, Italy) (represented by: A. Perani and P. Pozzi, lawyers)

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

Other party to the proceedings before the Board of Appeal: MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany)

Form of order sought

- Totally alter the decision of the OHIM Fourth Board of Appeal, Case R 138/2006-4, rendered on 19 December 2007 and notified on 27 December 2007;

- confirm the OHIM Opposition Division's decision dated 12 January 2006, ruling on opposition No B 675 803, as far as it allows application No 3 104 155 COMIT to proceed to registration for classes 35, 36, 41 and 42;
- alter the OHIM Opposition Division's decision dated 12 January 2006, ruling on opposition No B 675 803, as far as it accepts opposition No B 675 803, in part, for the goods in class 16;
- as a consequence, reject opposition No B 675 803 in its entirety and allow application No 3 104 155 COMIT to proceed to registration for all the goods and services of classes 16, 35, 36, 41 and 42;
- order the defendants to bear the costs of the present proceeding, as well as those of the OHIM opposition and appeal proceedings.

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The word mark 'COMIT' for goods and services in classes 16, 35, 36, 41 and 42 — application No 3 104 155

Proprietor of the mark or sign cited in the opposition proceedings: MIP Metro Group Intellectual Property GmbH & Co. KG

Mark or sign cited: The national figurative mark 'Comet' for goods and services in classes 9, 16, 35, 36, 41 and 42

Decision of the Opposition Division: Opposition partially upheld

Decision of the Board of Appeal: Annulment of the Opposition Division's decision and rejection of the trade mark application in its entirety

Pleas in law: According to the applicant, there is no likelihood of confusion between the conflicting trade marks.

Action brought on 28 February 2008 — TNC Kazchrome and ENRC Marketing v Council and Commission

(Case T-107/08)

(2008/C 116/43)

Language of the case: English

Parties

Applicants: Joint stock company 'Transnational Company Kazchrome' (TNC Kazchrome) (Actobe, Kazakhstan), ENRC Marketing AG (Kloten, Switzerland) (represented by: L. Ruessmann and A. Willems, lawyers)

Defendants: Council of the European Union and Commission of the European Communities