

Pleas in law and main arguments

In the present case, the applicant seeks the annulment of the Commission Decision 2008/283/EC of 13 November 2007 on the aid scheme implemented by Belgium for coordination centres established in Belgium, amending Decision 2003/757/EC ⁽¹⁾ following the partial annulment of that first decision by the Court of Justice ⁽²⁾. In that ruling, the ECJ held that the 2003 decision did not provide transitional measures for those coordination centres with an application for renewal of their authorisation pending on the date on which the contested decision was notified, or with an authorisation which expired at the same time as or shortly after the notification of that decision.

The contested decision creates transitional periods for the category of centres covered by the Court's ruling.

The applicant states in support of its contentions that the contested decision:

- is incompatible with Community law on existing aids, as consistently interpreted by the European Courts;
- denies the centres their legitimate expectations to benefit from a reasonable period after the Commission's final decision closing the existing aid procedure (notified to the applicant on 17 March 2008), to re-arrange their business and fiscal affairs;
- infringes Article 254(3) EC;
- by providing for the retroactive levying and payment taxes in an existing aid case, in effect orders the recovery of the aid as if it was illegal aid and this fails to respect the principle that existing aids schemes should only be changed prospectively, at a date after the final Commission decision closing the existing aid procedure;
- fails to respect the legitimate expectations of coordination centres which relied on the order of the President of the Court of Justice of 26 June 2003 ⁽³⁾ as a legal basis upon which they could obtain the renewal of authorisations;
- infringes the principles of equal treatment and non-discrimination by providing different treatment without objective justification for different groups of centres.

⁽¹⁾ OJ 2008 L 90, p. 7.

⁽²⁾ Joined Cases C-182/03 and C-217/03, *Belgium and Forum 187 v Commission*, [2006] ECR I-5479].

⁽³⁾ Joined Cases C-182/03 R and C-217/03 R, *Belgium and Forum 187 v Commission*, [2003] ECR I-6887].

Action brought on 22 May 2008 — JOOP! v OHIM

(Case T-191/08)

(2008/C 183/51)

Language in which the application was lodged: German

Parties

Applicants: JOOP! GmbH (Hamburg, Germany) (represented by: H. Schmidt-Hollburg, W. Möllering, A. Löhde, H. Leo, A. Witte, T. Frank, A. Theil, H.-P. Rühland, B. Willers and T. Rein)

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

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market of 6 March 2008 in Case R 1822/2007-1;
- Order the Office for Harmonisation in the Internal Market to pay the costs including those incurred during the appeal proceedings.

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Community trade mark concerned: figurative mark representing an exclamation mark, for goods in Classes 14, 18 and 25 (Application No 5 332 176).

Decision of the Examiner: Rejection of the registration.

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

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation (EC) No 40/94 ⁽¹⁾, as the mark applied for has distinctive character and its availability does not have to be preserved.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ L 11, 14.1.1994, p. 1).