

Form of order sought

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 March 2009 in case R 513/2008-1; and
- Order the defendant and the other party to the proceedings before the Board of Appeal to pay their own costs and those of the applicant

Pleas in law and main arguments

Applicant for the Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark 'BASMALI LONG GRAIN RICE RIZ LONG DE LUXE', for goods in class 30

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited: A non-registered trade mark of the word 'BASMATI' used for rice and a sign consisting of the word 'BASMATI' used in the course of trade designating a class of goods, namely rice

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(4) Council Regulation 207/2009 as the Board of Appeal wrongly based its decision solely upon an interpretation of the provision which fails to take into account national rules and judicial decisions delivered in the Member State concerned; secondly, the Board of Appeal failed to apply the law of a Member State, namely the United Kingdom, in relation to the form of action known as the 'extended form of passing off'; thirdly, the Board of Appeal erred in requiring that the applicant must hold proprietary rights to the sign 'BASMATI'; finally, the Board of Appeal erred in holding that the word 'BASMATI' is generic.

Action brought on 30 July 2009 — Unucid v Commission

(Case T-305/09)

(2009/C 244/19)

Language of the case: French

Parties

Applicant: Union nationale interprofessionnelle cidricole (Unucid) (Paris, France) (represented by: V. Ledoux and B. Néouze, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- annul the contested decision in its entirety;
- order the Commission to pay the costs.

Pleas in law and main arguments

By the present action, the applicant seeks annulment of Commission Decision C(2008) 7846 final of 10 December 2008, ⁽¹⁾ by which the Commission found that the framework for actions liable to be carried out by French inter-branch organisations, consisting in aid for technical assistance, for production and marketing for quality products, for research and development and marketing for primary producers and undertakings engaged in processing and marketing agricultural products, financed through voluntary levies made compulsory by inter-ministerial decree, to be collected from the members of those inter-branch organisations, were a measure constituting State aid compatible with the common market.

The pleas in law and principal arguments relied on by the applicant are essentially identical or similar to those put forward in Case T-293/09 *CNIEL v Commission* and Case T-302/09 *CNIPT v Commission*.

⁽¹⁾ OJ 2009 C 116, p. 14.

Action brought on 30 July 2009 — Val'hor v Commission

(Case T-306/09)

(2009/C 244/20)

Language of the case: French

Parties

Applicant: Val'hor (Paris, France) (represented by: V. Ledoux and B. Néouze, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Annul the contested decision in its entirety;
- order the Commission to pay the costs.