

GENERAL COURT

Judgment of the Court of First Instance of 29 October 2009 — Bowland Dairy Products v Commission

(Case T-212/06) ⁽¹⁾

(Action for damages — Regulation (EC) No 178/2002 — Rapid alert system — Supplementary notification — Competence of the national authorities — Commission's opinion not binding — Modification of the subject-matter of the dispute — Inadmissibility)

(2009/C 312/43)

Language of the case: English

Parties

Applicant: Bowland Dairy Products Ltd (Barrowford, Lancashire, United Kingdom) (represented by: J. Milligan, Solicitor, D. Anderson QC and A. Robertson, Barrister)

Defendant: Commission of the European Communities (represented by: P. Oliver, J.-P. Keppenne and L. Parpala, Agents)

Re:

Application, first, for annulment of the alleged refusal by the Commission to circulate, under the rapid alert system provided for in Article 50 of Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1), a supplementary notification declaring that the United Kingdom's Food Standards Agency was contented for the curd cheese produced by the applicant to be marketed and, second, for compensation for the loss allegedly suffered by the applicant as a consequence of that refusal.

Operative part of the judgment

The Court:

1. Dismisses the action as inadmissible.
2. Orders Bowland Dairy Products Ltd to pay the costs, including those relating to the interim proceedings.

⁽¹⁾ OJ C 237, 30.9.2006.

Judgment of the Court of First Instance of 29 October 2009 — Peek & Cloppenburg v OHIM — Redfil (Agile)

(Case T-386/07) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community figurative mark Agile — Earlier Community and national word marks Aygill's — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation (EC) No 207/2009))

(2009/C 312/44)

Language of the case: English

Parties

Applicant: Peek & Cloppenburg (Hamburg, Germany) (represented by: T. Dolde, A. Renck and V. von Bomhard, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented: initially by S. Laitinen, and subsequently by R. Pethke, Agents)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Redfil, SL (Barcelona, Spain) (represented by: C. Hernández Hernández, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 26 July 2007 (Case R 1324/2006-2), relating to opposition proceedings between Peek & Cloppenburg and Redfil, SL.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 26 July 2007 (Case R 1324/2006 2).
2. Orders OHIM to pay the costs incurred by Peek & Cloppenburg.
3. Orders Redfil, SL to bear its own costs.

⁽¹⁾ OJ C 297, 8.12.2007.