

Fifth, there was an infringement of Article 37(2) EC, because on the basis of that provision a different procedure should have been chosen for the adoption of the Regulation.

Finally, the Commission infringed its obligation to state reasons under Article 253 EC (Article 296, second paragraph, TFEU), as the reason given by the Commission for the contested regulation is that it implements the judgment in Joined Cases C-5/06 etc, but, in the applicant's view, that decision goes beyond the requirements of that judgment.

(¹) Council Regulation (EC) No 1260/2001 of 19 June 2001 on the common organisation of the markets in the sugar sector (OJ 2001 L 178, p. 1).

Action brought on 15 February 2010 — Intermark Srl v OHIM

(Case T-72/10)

(2010/C 113/83)

Language in which the application was lodged: Hungarian

Parties

Applicant(s): Intermark Srl (Steii, Romania) (represented by: Á.M. László, ügyvéd)

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

Other party/parties to the proceedings before the Board of Appeal of OHIM: Natex International Trade SpA (Piolтелно, Italy)

Form of order sought

— Amendment of the decision of the defendant and dismissal in its entirety of the application for registration with regard to all goods;

— An order that the defendant bear the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Natex International Trade SpA

Community trade mark concerned: the word mark 'NATY'S' for goods in classes 29, 30 and 32 (application for registration No 5 810 627)

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

Mark or sign cited in opposition: the figurative mark 'Naty' for goods and services in classes 30 and 35 (Community trade mark No 4 149 456)

Decision of the Opposition Division: opposition upheld in part

Decision of the Board of Appeal: dismissal of the application

Pleas in law: breach of Article 8(1)(b) of Regulation (EC) No 207/2009, (¹) in that there is a likelihood of confusion between the marks at issue.

(¹) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

Action brought on 17 February 2010 — Embraer and others v Commission

(Case T-75/10)

(2010/C 113/84)

Language of the case: English

Parties

Applicants: Empresa Brasileira de Aeronáutica, SA (Embraer) (São José dos Campos, Brazil), Embraer Aviation Europe SAS (EAE) (Villemontais, France), Indústria Aeronáutica de Portugal SA (OGMA) (Alverca do Ribatejo, Portugal) (represented by: U. O'Dwyer and A. Martin, Solicitors)