

GENERAL COURT

Judgment of the General Court of 2 February 2011 — Oyster Cosmetics v OHIM — Kadabell (Oyster cosmetics)(Case T-437/09) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark Oyster cosmetics — Earlier Community figurative mark Kadus oystera AUTO STOP PROTECTION — Relative ground for refusal — Likelihood of confusion — Similarity of signs — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2011/C 80/34)

Language of the case: English

Parties

Applicant: Oyster Cosmetics SpA (Castiglione delle Stiviere, Italy) (represented by: A. Perani and P. Pozzi, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Kadabell GmbH & Co. KG (Darmstadt, Germany) (represented by: K. Sandberg, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 5 August 2009 (Case R 1367/2008-1) concerning opposition proceedings between Kadabell GmbH & Co. KG and Oyster Cosmetics SpA.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Oyster Cosmetics SpA to pay the costs.

⁽¹⁾ OJ C 11, 16.1.2010.

Order of the General Court of 21 January 2011 — Vtesse Networks Ltd v Commission(Case T-54/07) ⁽¹⁾

(Application for annulment — State aid — Telecommunications — Tax on non-domestic property of undertakings in the United Kingdom — Decision finding that the measure at issue does not constitute aid — No individual concern — Inadmissibility)

(2011/C 80/35)

Language of the case: English

Parties

Applicant: Vtesse Networks Ltd (Hertford, Hertfordshire, United Kingdom) (represented by: H. Mercer, Barrister, and J. Ballard, Solicitor)

Defendant: European Commission (represented by: N. Khan and H. van Vliet, Agents)

Interveners in support of the applicant: AboveNet Communications UK Ltd, (London, United Kingdom); Gamma Telecom Ltd (Newbury, Berkshire, United Kingdom) and VTL (UK) Ltd (Egham, Surrey, United Kingdom), represented by I. Forrester QC, C. Arhold and K. Struckmann, lawyers)

Interveners in support of the defendant: British Telecommunications plc, (London, United Kingdom), (represented by G. Robert and C. Berg, Solicitors) and United Kingdom of Great Britain and Northern Ireland (represented by V. Jackson, Agent, and by C. Vajda QC and T. Morshead, Barrister)

Re:

Application for annulment in part of Commission Decision 2006/951/EC of 12 October 2006 on the United Kingdom's application of the tax on non-domestic property to telecommunications infrastructure in the United Kingdom (No C-4/2005 (ex NN 57/2004, ex CP 26/2004)) (OJ 2006 L 383, p. 70)

Operative part of the order

1. The application is dismissed as inadmissible.
2. Vtesse Networks Ltd shall bear its own costs and pay the costs of the European Commission.
3. The United Kingdom of Great Britain and Northern Ireland, AboveNet Communications UK Ltd, Gamma Telecom Ltd, VTL (UK) Ltd and British Telecommunications plc shall bear their own costs.

⁽¹⁾ OJ C 82, 14.4.2007.