

In connection with the corrections in the area of direct aid (arable crops), the applicant maintains, first, that: (a) there was no valid legal basis for applying the old guidelines, which laid down fixed percentages for the application of corrections to the new common agricultural policy (CAP), to the new single payment scheme and (b) their application seriously infringes the principle of proportionality.

The applicant maintains, secondly, that the Commission made an erroneous assessment of the facts: (a) in relation to the alleged weakness of the LPIS-GIS, (b) in relation to the fact that if a comparison is made of information from the LPIS-GIS which was used for the claim year 2007 with the information from the complete and reliable 2009 LPIS-GIS, which the Commission checked by an on-the-spot inspection, it is clear that the differences and deficiencies are minimal and do not exceed 2 % and, accordingly, any correction should not exceed that percentage and (c) in relation to the alleged weaknesses in management checks, cross-checks and on-the-spot checks and their quality and in particular the alleged failure to measure grazing land and the alleged lateness in carrying out on-the-spot checks, since the multiplicity of improvements made in the 2007 claim year should lead the Commission to the conclusion that no correction is necessary.

Lastly, the applicant claims that there was an erroneous interpretation and application of Article 33 of Regulation 1290/05 ⁽¹⁾ in relation to the correction to expenditure on rural development measures.

⁽¹⁾ Council Regulation (EC) No 1290/2005 of 21 June 2005 on the financing of the common agricultural policy

Action brought on 9 June 2011 — Duscholux Ibérica v OHIM — Duschprodukt i Skandinavien (duschy)

(Case T-295/11)

(2011/C 238/45)

Language in which the application was lodged: English

Parties

Applicant: Duscholux Ibérica, SA (Barcelona, Spain) (represented by: J. Carbonell Callicó, lawyer)

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

Other party to the proceedings before the Board of Appeal: Duschprodukt i Skandinavien AB (Hisings Backa, Sweden)

Form of order sought

- Modify the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 March 2011 in case R 662/2010-1;
- Subordinately, and only in the case the former claim would be rejected, annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 March 2011 in case R 662/2010-1;

- Order the defendant and the other party to the proceedings before the Board of Appeal to pay the costs.

Pleas in law and main arguments

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

Community trade mark concerned: The international figurative mark 'duschy', for goods in classes 11 and 20 — Community trade mark application No W927073

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

Mark or sign cited in opposition: Community trade mark registration No 2116820, of the figurative mark 'DUSCHO Harmony', for goods in classes 6, 11 and 19

Decision of the Opposition Division: Partially upheld the opposition

Decision of the Board of Appeal: Annulled the contested decision

Pleas in law: Infringement of Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms, related to the right to fair trial; infringement of Articles 75 and 76 of Council Regulation No 207/2009, because the Board of Appeal disregarded facts and evidences that were submitted in due time by the applicant; and, infringement of Article 8(1)(b) of Council Regulation No 207/2009, because the Board of Appeal wrongly found that there was no risk of confusion between the conflicting trademarks.

Action brought on 8 June 2011 — Cementos Portland Valderrivas v Commission

(Case T-296/11)

(2011/C 238/46)

Language of the case: Spanish

Parties

Applicant: Cementos Portland Valderrivas, SA (Pamplona, Spain) (represented by: L. Ortiz Blanco, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- declare the action admissible;
- annul the Commission's decision of 30 March 2011;
- order the Commission to pay the costs.

Pleas in law and main arguments

The action has been brought against the Commission's decision of 30 March 2011 in proceedings pursuant to Article 18(3) of Council Regulation (EC) No 1/2003, adopted in relation to Case COMP/39.520 — Cement and related products.