Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— Annul Articles 1, 2 and 3 of Commission decision C(2013) 3803 final of 19 June 2013 in Case COMP/39226 — Lundbeck insofar as they pertain to Arrow; or

— In the alternative annul Article 2 of Commission decision C(2013) 3803 final of 19 June 2013 in Case COMP/39226 — Lundbeck insofar as it imposes a fine on Arrow in respect of the UK and Danish Agreements; or

— In the further alternative annul Article 2 of Commission decision C(2013) 3803 final of 19 June 2013 in Case COMP/39226 — Lundbeck insofar as it imposes a fine on Arrow in respect of the Danish Agreement and reduce the fine accordingly; or

— In the final alternative reduce the fine imposed pursuant to Article 2 of Commission decision C(2013) 3803 final of 19 June 2013 in Case COMP/39226 — Lundbeck; and

— Order the Commission to pay Arrow's costs.

Pleas in law and main arguments

In support of the action, the applicant relies on six pleas in law.

1. First plea in law, alleging that the Commission has infringed essential procedural requirements in the process leading to the adoption of the Decision, by failing (i) to open proceedings and pursue its investigation with a reasonable timeframe, (ii) to provide timely and proper access to file and (iii) to issue a supplementary statement of objections.

2. Second plea in law, alleging that the Commission has failed to prove to the requisite legal standard that Arrow and Lundbeck were potential competitors when entering into each of the Agreements.

3. Third plea in law, alleging that the Commission has failed to prove to the requisite legal standard that each of the Agreements had the object of restricting competition contrary to Article 101 TFEU.

4. Fourth plea in law, alleging that the Commission has infringed the principles of proportionality, nullum crimen nulla poena sine lege, and legal certainty in imposing a fine on Arrow.

5. Fifth plea in law, alleging in the alternative that the Commission has erred in characterising the UK Agreement and the Danish Agreement as a single continuous infringement of Article 101 TFEU and has infringed Article 25 of Regulation 1/2003 ([1]) by imposing a fine on Arrow in respect of the Danish Agreement following the expiry of the limitation period for the imposition of fines.

6. Sixth plea in law, alleging in the further alternative, that the Commission has committed errors in calculating the amount of the fine by imposing a fine which is disproportionate to the gravity of the alleged infringements of Article 101 TFEU.

([1]) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty

Action brought on 9 September 2013 — MedSkin Solutions Dr. Suwelack v OHIM — Cryo-Save (CryoSafe)

(Case T-482/13)

(2013/C 313/63)

Language in which the application was lodged: German

Parties

Applicant: MedSkin Solutions Dr. Suwelack AG (Billerbeck, Germany) (represented by: A. Thünken, lawyer)

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

Other party to the proceedings before the Board of Appeal: Cryo-Save AG (Pfäffikon, Switzerland)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 4 July 2013 (Case R 1759/2012-4) and alter it to the effect that the appeal lodged by the applicant at OHIM is well-founded and the opposition is therefore to be rejected;

— In the alternative, annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 4 July 2013 (Case R 1759/2012-4) and refer the case back to the competent Examiner at OHIM;

— Order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the word mark 'CryoSafe' for goods and services in Classes 5 and 40 — Community trade mark application No 9 619 586

Proprietor of the mark or sign cited in the opposition proceedings: Cryo-Save AG

Mark or sign cited in opposition: the word mark 'CryoSave' for goods in Classes 10, 42 and 44

Decision of the Opposition Division: the opposition was upheld in part

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009

Action brought on 6 September 2013 — Navarra de Servicios y Technologías v Commission

(Case T-487/13)

(2013/C 313/64)

Language of the case: Spanish

Parties

Applicant: Navarra de Servicios y Technologías SA (Pamplona, Spain) (represented by: A. Andérez González, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should annul the contested decision in so far as it affects the applicant, and order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging breach of Article 107(1) TFEU.

   The applicant alleges, in that respect, that there was no State aid, since in the present case there is no State intervention through the transfer of State resources, no advantage in favour of undertakings carrying out an economic activity and no distortion of competition or threat to trade between the Member States.

2. Second plea in law, alleging breach of Article 107(2) TFEU and of the Protocol on the system of public broadcasting in the Member States annexed to the Treaty of Amsterdam of 2 October 1997.

   In this respect, the applicant alleges that

   — the services of general economic interest, in respect of whose configuration, organisation and funding the Member States have a wide margin of discretion, are of a lawful nature.

   — it did not obtain a more favourable competitive position;

   — the *Altmark* criteria were observed in the present case, in that there are clearly defined, and expressly transferred, public service obligations and a detailed and an objective economic quantification was carried out that does not exceed the costs incurred in the discharge of the public service obligation.

3. Third plea in law, alleging breach of Article 107(3)(c) TFEU, in that there is an objective of common interest in the present case, in respect of which the disputed measure is suitable and proportionate and does not provoke unnecessary distortions on the market.

4. Fourth plea in law, alleging misuse of power between the objective of the contested decision and the ultimate purpose pursued through it, as well as a manifest disproportion between the theoretical aim pursued and the consequences of its application, which are contrary to the general interest and favour the commercial and economic interests of a specific operator or operators.
