

Form of order sought

The applicant claims that the Court should:

- Annul the decision issued on 14 September 2012 (Case R 2214/2013-5) on the grounds that Article 8(1)(b) CTMR was not correctly applied, which resulted in the incorrect finding that the conflicting trade marks were not visually and conceptually similar;
- Order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) and Sinda Poland Corporation Sp. z.o.o. to pay the costs of the proceedings before the General Court and the Office.

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 figurative mark containing the representation of an imaginary animal for goods in class 25 — Community trade mark application No 11 142 395

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

Mark or sign cited in opposition: The international registrations Nos 369 075 and 480 105 for goods in classes 18, 25 and 28, and the international registration No 593 987 for goods and services in all classes

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Rejected the appeal

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

Action brought on 22 September 2014 — EREF/Commission

(Case T-694/14)

(2014/C 409/77)

Language of the case: English

Parties

Applicant: European Renewable Energies Federation (EREF) (Brussels, Belgium) (represented by: U. Prall, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the provisions of the Communication of the Commission — Guidelines on State aid for environmental protection and energy 2014-2020, of 28 June 2014 (OJ C 200/1) relating to the compatibility assessment under Article 107(3)C of the Treaty in chapter 3.3.2. on the design of support schemes for renewable energy entitled 'Operating aid for renewable energy sources'.
- order the European Commission to pay all procedural costs, including the costs of the applicant.

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 a lack of competence.

- The Commission lacked the competence to adopt the Guidelines, as the European legislator has limited competence in the field of energy. Under Art. 194 TFEU, technology-neutral renewable energy support schemes cannot be imposed on the Member States as they impact their sovereign energy rights. The European Commission is not the EU legislator and cannot use guidelines to adopt 'quasi legislation' to go against the provisions of EU secondary law, i.e. the Renewable Energy Directive 2009/28/EC.
2. Second plea in law, alleging an infringement of the duty to state reasons.
- With the adoption of the Guidelines, the Commission infringed the duty to state reasons and thus an essential procedural requirement. Neither in the Guidelines themselves nor in the Impact Assessment sufficient justification for the policy choice of requiring all Member States in principle to adopt a technology-neutral competitive bidding system to support renewable energy can be found.
3. Third plea in law, alleging an infringement of the principle of proportionality.
- The Commission with the Guidelines further infringes the principle of proportionality, as the Guidelines propose instruments not suitable for the declared objectives of promoting the EU's renewable energy objectives while reducing distortive effects. Neither are those instruments proportionate, while they do create excessive burdens both on Member States almost all of which will have to reform their renewable energy support schemes, and on individuals, who will have to take on the additional administrative burden caused by the participation in the competitive bidding procedures.
4. Fourth plea in law, alleging a misuse of power.
- The Guidelines constitute a misuse of power on behalf of the Commission. With the Guidelines the Commission seems to attempt to legislate in areas where the EU legislator is not competent, and suggests that measures intrinsically aiming at the harmonization of the support for renewable energy in the EU would be for the purposes of ensuring compatibility of certain State aid measures with the internal market.

Action brought on 26 September 2014 — Omega v OHIM (Representation of a picture in black and white)

(Case T-695/14)

(2014/C 409/78)

Language of the case: German

Parties

Applicant: Omega International GmbH (Bad Oldesloe, Germany) (represented by J. Becker, lawyer)

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

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 18 July 2014 in Case R 1037/2014-5 and register the mark as a trade mark under application No 12 174 215;
- Order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the figurative mark representing a picture in black and white for goods and services in Classes 3, 5, 32 and 33 — Community trade mark application No 12 174 215