

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community figurative mark containing the word element 'TUUM' — Application for registration No 11 939 774

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 3 September 2015 in Case R 2624/2014-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- reject definitively and in its entirety the opposition to the registration of the mark applied for in respect of the claimed goods in Class 14;
- instruct OHIM to register the mark applied for;
- order OHIM and the intervener to pay the costs, including those incurred in the proceedings before the Opposition Division and the Board of Appeal.

Plea in law

- Infringement and misapplication of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 13 November 2015 — Infratel Italia and Others v Commission

(Case T-636/15)

(2016/C 016/59)

Language of the case: Italian

Parties

Applicants: Infrastrutture e telecomunicazioni per l'Italia SpA (Infratel Italia SpA) (Rome, Italy), Ericsson telecomunicazioni SpA (Rome, Italy), Italdata SpA (Avellino, Italy) and Linea Com Srl (Cremona, Italy) (represented by: G.M. Roberti, I. Perego, M.S. Serpone and M. Serpone, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the decision, in full or in part;
- order the Commission to pay the costs.

Pleas in law and main arguments

The present action is brought against the decision contained in the European Commission's letter of 28 August 2015 (Ref. Ares [2015] 3 551 496) regarding *Termination of grant agreement 621078 project VIRGO*.

In support of their action, the applicants rely on four pleas in law.

1. First plea in law, alleging infringement of the rights of the defence, the principle of sound administration, Articles 41 and 48 of the Charter, Article 135 of Regulation (EU, Euratom) No 966/2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1), and Article 208 of Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ 2012 L 362, p. 1), and a breach of the duty to provide a statement of reasons.
 - The Commission did not hear the applicants prior to the adoption of the decision by which it made provision for the termination of the grant agreement and ordered the repayment of the amounts received as advance funding. The Commission infringed the applicants' rights of the defence, and also infringed Article 135 of Regulation No 966/2012, Article 208 of Regulation No 1268/2012, and Articles 41 and 48 of the Charter. In addition, the Commission based the decision purely on assessments made by external experts, making reference to those assessments without providing a self-standing statement of reasons in that decision. The Commission thus infringed the principle of sound administration and breached its duty to provide an adequate statement of reasons.
2. Second plea in law, alleging errors of assessment, a breach of the duty to provide a statement of reasons, and infringement of the principle of non-discrimination, Article 135 of Regulation No 966/2012, and Article 208 of Regulation No 1268/2012.
 - The assessments carried out by the Commission and by its external experts forming the basis of the decision are the result of incorrect assessments of fact and of law and are not supported by a consistent and adequate statement of reasons. The Commission also infringed Article 135(3) and (4) of Regulation No 966/2012.
3. Third plea in law, alleging errors of assessment, infringement of the principles of proportionality and sound administration, a breach of the duty to provide a statement of reasons, and infringement of Article 135 of Regulation No 966/2012, Article 208 of Regulation No 1268/2012, and the *Guide to Financial Issues relating to ICT PSP Grant Agreement*.
 - The Commission did not correctly assess the differing levels of importance of individual *deliverables* to the project as a whole, thereby failing to fulfil its obligations to ensure sound administration and infringing the rules laid down in that regard by the *Guide to Financial Issues relating to ICT PSP Grant Agreement*. The Commission also failed to provide a specific and adequate statement of reasons in that regard.
4. Fourth plea in law, alleging infringement of Article 135 of Regulation No 966/2012, Article 208 of Regulation No 1268/2012, and the principle of proportionality, and a breach of the duty to provide a statement of reasons.
 - The Commission imposed the order for recovery of the full amount of advance funding without taking due account of the importance of the project for European Union policies and the reusability of the work carried out by the consortium. In so doing, the Commission infringed Article 135 of Regulation No 966/2012, Article 208 of Regulation No 1268/2012, and the principle of proportionality.

**Action brought on 12 November 2015 — Alcohol Countermeasure Systems (International) v OHIM
— Lion Laboratories (ALCOLOCK)**

(Case T-638/15)

(2016/C 016/60)

Language in which the application was lodged: English

Parties

Applicant: Alcohol Countermeasure Systems (International) Inc. (Toronto, Canada) (represented by: E. Baud, P. Marchiset, lawyers)