

Defendant: European Commission (represented by: G. Braga da Cruz and L. Cappelletti, acting as Agents)

Re:

Application to suspend the operation of Commission Implementing Decision (EU) 2015/902 of 10 June 2015 on a measure taken by Latvia in accordance with Directive 2006/42/EC of the European Parliament and of the Council to prohibit the placing on the market of a lawnmower manufactured by GGP Italy SpA (OJ 2015 L 147, p. 22).

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *The costs are reserved.*

Action brought on 6 October 2015 — Flamagas v OHIM — MatMind (CLIPPER)

(Case T-580/15)

(2016/C 038/84)

Language in which the application was lodged: English

Parties

Applicant: Flamagas, SA (Barcelona, Spain) (represented by: I. Valdelomar Serrano, G. Hinarejos Mulliez and D. Gabarre Armengol, lawyers)

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

Other party to the proceedings before the Board of Appeal: MatMind Srl (Formello, Italy)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community tridimensional mark (Shape of lighter containing the word element 'CLIPPER') — Community trade mark No 4 758 652

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 30 July 2015 in Case R 924/2013-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- confirm the decision of 22/03/2013 of the Cancellation Division in Cancellation Proceedings No. C 5642 against Community trademark registration No. 4 758 652;
- order the other party to the proceedings to pay the costs.

Pleas in law

- Infringement of Article 7(1)(a) of Regulation No 207/2009;

- Infringement of Article 7(1)(b) of Regulation No 207/2009;
- Infringement of Article 7(1)(e)(ii) of Regulation No 207/2009.

Action brought on 27 October 2015 — Yieh United Steel v Commission

(Case T-607/15)

(2016/C 038/85)

Language of the case: English

Parties

Applicant: Yieh United Steel Corp. (Kaohsiung City, Taiwan) (represented by: D. Luff, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul articles 1 and 2 of Commission Implementing Regulation (EU) 2015/1429 of 26 August 2015 imposing a definitive anti-dumping duty on imports of stainless steel cold-rolled flat products originating in the People's Republic of China and Taiwan ⁽¹⁾(the 'Contested Regulation' or the 'Definitive Duty Regulation'), in so far as it relates to the Applicant; and
- order that the Commission pays the Applicant's costs of this application.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Court has jurisdiction to review Articles 1 and 2 of the Contested Regulation and its conformity with the Basic Regulation and the general principles of European law.
2. Second plea in law, alleging that the Commission violated Article 2(5) of the Basic Regulation because it unduly refused to consider the applicant's cost allocation methods, which the applicant used historically and which correspond to internationally recognised accounting practices. Because of this violation, the Commission wrongly refused a deduction of the recycled scrap from the cost of production of the product concerned, thus artificially inflating the normal value in violation of Article 2(3) of the Basic Regulation.
3. Third plea in law, alleging that the Commission violated Articles 2(1) of the Basic Regulation because it unduly discarded sales of the product concerned in the ordinary course of trade to an independent domestic customer to determine normal value. The Commission did not sufficiently state the reason of such refusal. Furthermore, assuming the reason of such refusal is merely the fact that these sales were exported after the sale (without the applicant knowing), the criteria the Commission applied is illegal. The Commission should have considered the applicant's intention regarding the end destination of these sales at the time of the sale. Thus, the Commission violated Article 2(2) of the Basic Regulation by rejecting domestic sales simply because they were exported by an independent customer after the sale.

⁽¹⁾ OJ 2015 L 224, p. 10.