

Defendant: Agency for the Cooperation of Energy Regulators (ACER) (represented by: E. Tremmel, acting as Agent)

Re:

Application under Article 263 TFEU for annulment of Opinion No 09/2015 of ACER of 23 September 2015 on the compliance of national regulatory authorities' decisions approving the methods of allocation of cross-border transmission capacity in the Central-East Europe region with Regulation (EC) No 714/2009 and the Guidelines on the management and allocation of available transfer capacity of interconnections between national systems contained in Annex I thereto.

Operative part of the order

1. *The action is dismissed as inadmissible.*
2. *There is no longer any need to rule on the applications to intervene of the Republic of Austria, the Republic of Poland, Wirtschaftskammer Österreich, Verbund AG and Polskie Sieci Elektroenergetyczne S.A.*
3. *Energie-Control Austria für die Regulierung der Elektrizitäts- und Erdgaswirtschaft (E-Control) shall bear its own costs and shall pay those incurred by the Agency for the Cooperation of Energy Regulators (ACER), including those relating to the interim proceedings.*
4. *The Republic of Austria, the Republic of Poland, Wirtschaftskammer Österreich, Verbund AG and Polskie Sieci Elektroenergetyczne S.A. shall bear their own costs relating to the applications to intervene.*

⁽¹⁾ OJ C 38, 1.2.2016.

Order of the General Court of 18 October 2016 — Laboratoire de la mer v EUIPO — Boehringer Ingelheim Pharma (RESPIMER)

(Case T-109/16) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for EU word mark RESPIMER — Earlier EU word mark RESPIMAT — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 — Action manifestly lacking any foundation in law)

(2016/C 462/31)

Language of the case: English

Parties

Applicant: Laboratoire de la mer (Saint-Malo, France) (represented by: S. Szilvasi, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Hanf, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO: Boehringer Ingelheim Pharma GmbH & Co. KG (Ingelheim, Germany)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 21 January 2016 (Case R 3109/2014-5), relating to opposition proceedings between Boehringer Ingelheim Pharma and Laboratoire de la mer.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Laboratoire de la mer to pay the costs.*

⁽¹⁾ OJ C 165, 10.5.2016.

**Action brought on 5 September 2016 — Starbucks and Starbucks Manufacturing Emea v
Commission**

(Case T-636/16)

(2016/C 462/32)

Language of the case: English

Parties

Applicants: Starbucks Corp. (Seattle, Washington, United States) and Starbucks Manufacturing Emea BV (Amsterdam, Netherlands) (represented by: S. Verschuur, M. Petite and M-A. Stroungi, lawyers)

Defendants: European Commission

Form of order sought

The applicants claim that the Court should:

- annul Articles 1-4 of the Commission's decision of 21 October 2015 on State Aid SA.38374 (2014/C ex 2014/NN) implemented by the Netherlands to Starbucks ('the contested decision');
- in the alternative, annul Article 2(1) of the contested decision; and
- order the Commission to pay the costs of this procedure.

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 Commission violated Article 107(1) TFEU by committing a material error of law and a manifest error of assessment when interpreting and applying the reference framework for purposes of assessing whether the APA confers a selective advantage.
2. Second plea in law, alleging that the Commission violated Article 107(1) TFEU by incorrectly establishing that the APA conferred an advantage, thereby committing various manifest errors of fact and assessment, failing to conduct a diligent and impartial examination and giving an inadequate statement of reasons.
3. Third plea in law, alleging that the Commission violated Article 16 of Council Regulation (EU) 2015/1589 ⁽¹⁾ by wrongly quantifying the alleged aid, thereby committing a material error of law and a manifest error of assessment.

⁽¹⁾ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015, L 248, p. 9).