Pleas in law and main arguments

The pleas in law and main arguments are those already put forward in Case T-217/07 Las Palmeras v Council and Commission.

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Action brought on 25 June 2007 — DSV Road v Commission

(Case T-219/07)

(2007/C 211/69)

Language of the case: Dutch

Parties

Applicant: DSV ROAD N.V. (represented by: A. Poelmans, A. Calewaert and R. de Wit, lawyers)

Defendant: Commission of the European Communities

Form of order sought

— set aside Decision C(2007) 1776 of the Commission of the European Communities of 24 April 2007 in relation to the application of the Kingdom of Belgium (file reference REC 05/02) determining that import duties in the amount of EUR 168 004,65 forming the subject-matter of the application of the Kingdom of Belgium of 12 August 2002 must be recovered and that there are no grounds for remission of those import duties;

— order the Commission to pay the costs of the present proceedings.

Pleas in law and main arguments

The applicant imported diskettes from Thailand. Those diskettes were covered by a preferential rule under the scheme of general tariff preferences on condition that their importation was covered by a form A certificate of origin issued by the competent Thai authorities in accordance with Article 80 of Regulation (EEC) No 2454/93 (1).

On the occasion of each customs declaration the applicant submitted a form A issued by the Thai authorities, following which the Belgian authorities accorded preferential tariff treatment.

However, a number of the certificates issued by the Thai authorities were declared to be invalid, with the result that the goods concerned were not eligible for preferential tariff treatment when imported into the EU.

In the contested decision the Commission ruled that the resulting customs debt had to be the subject of post-clearance recovery.

The applicant first submits that the Commission should have ruled that the outstanding duties did not have to be the subject of post-clearance recovery, in accordance with Article 220(2)(b) of Regulation (EEC) No 2913/92 (2). The applicant submits that the issue of the form A certificates was attributable to a mistake on the part of the Thai authorities and that there is no indication whatsoever that the exporters incorrectly set out the facts. Moreover, the applicant contends, there was a mistake inasmuch as the Thai authorities knew, or ought to have known, that the goods in question were not eligible for preferential tariff treatment.

Second, the applicant submits that the Commission ought to have remitted the duties in accordance with Article 239 of Regulation (EEC) No 2913/92 on the ground of special circumstances.

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Action brought on 29 June 2007 — Thomson Sales Europe v Commission

(Case T-225/07)

(2007/C 211/70)

Language of the case: French

Parties

Applicant: Thomson Sales Europe (Boulogne-Billancourt, France) (represented by: F.Goguel and F. Foucault, lawyers)

Defendant: Commission of the European Communities

Form of order sought

— Before ruling, order disclosure to the parties all of the materials, documents, reports, letters, preparatory works etc which led to the two Regulations No 2376/94 and No 710/95;

— Principally, annul the decision of the Commission REM No 03/05 of 7 May 2007.


Pleas in law and main arguments

By the present action, the applicant seeks the annulment of Commission Decision No REM 03/05 of 7 May 2007 holding that the remission of import duties is not justified in the particular case of the applicant. That decision was issued following the application made to the Commission by the French national authorities, who had claimed from the applicant payment of anti-dumping duties on importation of colour television receivers manufactured in Thailand by its subsidiary there, and on which the subsidiary had applied for remission on the basis of Article 239 of Council Regulation (EEC) No 2913/92 of 12 October 1992 establishing the Community Customs Code. (1)

The applicant considers that it is entitled to the remission on the basis of Article 239 of Regulation (EEC) No 2913/92, since, in its opinion, it satisfies the two conditions laid down in that provision.

As regards the first condition (the existence of a special situation), the applicant claims that its situation is certainly special and is the result of, first, the conduct of the Commission which changed its approach to interpretation of the legal provisions on the origin of goods without having properly informed traders, and, second, the conduct of the national authorities who followed the approach adopted by the Commission.

As regards the second condition referred to in Article 239 of Regulation (EEC) No 2913/92 (no deception or negligence), the applicant claims that it cannot be considered to have been negligent since it trusted in the validity of the initial position of the Commission's services, who, in the opinion of the applicant, decided not to employ in its case a strict application of the rules of origin but to apply to it the special anti-dumping duties on all the receivers manufactured and exported by its Thailand subsidiary.


Form of order sought

— annul the Decision of the First Board of Appeal of 18 April 2007 in Case R 1611/2006-1;
— order the Office for Harmonisation in the Internal Market to enter trade mark application No 4 839 916 ‘PRANAHAUS’ in the Register of Community trade marks and
— order the Office for Harmonisation in the Internal Market to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark concerned: The word mark ‘PRANAHAUS’ for goods and services in classes 9, 16 and 35 (application No 4 839 916)

Decision of the Examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation (EC) No 40/94 (1), since there is no absolute ground for refusal of registration of the trade mark applied for.


Action brought on 20 June 2007 — Prana Haus v OHIM (PRANAHAUS)

(Case T-226/07)

(2007/C 211/71)

Language of the case: German

Parties

Applicant: Prana Haus (Freiburg, Germany) (represented by N. Hebeis, lawyer)

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

Action brought on 28 June 2007 — Spain v Commission

(Case T-227/07)

(2007/C 211/72)

Language of the proceedings: Spanish

Parties

Applicant: Kingdom of Spain (represented by: M. Muñoz Pérez)

Defendant: Commission of the European Communities