

Judgment of the Court of First Instance of 24 September 2008 — M v Ombudsman

(Case T-412/05) ⁽¹⁾

(Non-contractual liability — Decision by the Commission to take no action on a complaint calling into question the conduct of a Member State — Decision by the European Ombudsman concerning the handling of the complaint — Errors made by the Commission in its finding of instances of maladministration — Naming of the applicant — Infringement of the right to respect for private life, and of the principles of proportionality and the right to be heard — Non-material damage — Causal link)

(2008/C 285/62)

Language of the case: French

Parties

Applicant: M (Brussels, Belgium) (represented initially by G. Vandersanden and A. Kalogeropoulos, then by A. Kalogeropoulos and L. Levi, lawyers)

Defendant: European Ombudsman (represented by: J. Sant'Anna and G. Grill, Agents)

Re:

Action under the second paragraph of Article 288 EC for compensation for damage suffered by the applicant as a result of being named in the decision of the European Ombudsman of 18 July 2002 concerning the complaint registered with the reference 1288/99/OV and as a result of the negligent conduct of the Ombudsman concerning the investigation of that complaint and the conclusions he reached in that decision.

Operative part of the judgment

The Court:

1. Orders the European Ombudsman to pay Mr M compensation of EUR 10 000;
2. Dismisses the action as to the remainder;
3. Orders each party to bear its own costs.

⁽¹⁾ OJ C 48, 25.2.2006.

Judgment of the Court of First Instance of 24 September 2008 — Reliance Industries v Council and Commission

(Case T-45/06) ⁽¹⁾

(Common commercial policy — Anti-dumping duties — Countervailing duties — Expiry of duties — Notice of initiation of a review — Time-limits — WTO Rules)

(2008/C 285/63)

Language of the case: English

Parties

Applicant: Reliance Industries Ltd (Mumbai, India) (represented by: I. MacVay and S. Ahmed, Solicitors, R. Thompson, QC, and K. Beal, Barrister)

Defendants: Council of the European Union (represented by: J.-P. Hix, acting as Agent, assisted by G. Berrisch, lawyer) and Commission of the European Communities (represented by: N. Khan and P. Stancanelli, acting as Agents)

Re:

Application for annulment of:

- Commission Notice of 1 December 2005 of initiation of an expiry review of the countervailing measures applicable to imports of certain polyethylene terephthalate originating in inter alia India (OJ 2005 C 304, p. 4),
- Commission Notice of 1 December 2005 of initiation of an expiry review of the anti-dumping measures applicable to imports of certain polyethylene terephthalate originating in India, Indonesia, the Republic of Korea, Malaysia, Taiwan and Thailand and a partial interim review of the anti-dumping measures applicable to imports of certain polyethylene terephthalate originating in the Republic of Korea and Taiwan (OJ 2005 C 304, p. 9),
- Council Regulation (EC) No 2603/2000 of 27 November 2000 imposing a definitive countervailing duty and collecting definitively the provisional duty imposed on imports of certain polyethylene terephthalate originating in India, Malaysia and Thailand and terminating the anti-subsidy proceeding concerning imports of certain polyethylene terephthalate originating in Indonesia, the Republic of Korea and Taiwan (OJ 2000 L 301, p. 1), Council Regulation (EC) No 2604/2000 of 27 November 2000 imposing a definitive anti-dumping duty and collecting definitively

the provisional duty imposed on imports of certain polyethylene terephthalate originating in India, Indonesia, Malaysia, the Republic of Korea, Taiwan and Thailand (OJ 2000 L 301, p. 21), and Commission Decision 2000/745/EC of 29 November 2000 accepting undertakings offered in connection with the anti-dumping and anti-subsidy proceedings concerning imports of certain polyethylene terephthalate (PET) originating in India, Indonesia, Malaysia, the Republic of Korea, Taiwan and Thailand (OJ 2000 L 301, p. 88), in so far as those measures may purport to apply to the applicant in the period after 1 December 2005,

- in the alternative, Article 11(2) of Council Regulation (EC) No 384/96 of 22 December 1995 on protection against dumped imports from countries not members of the European Community (OJ 1996 L 56, p. 1) and Article 18(1) of Council Regulation (EC) No 2026/97 of 6 October 1997 on protection against subsidised imports from countries not members of the European Community (OJ 1997 L 288, p. 1).

Operative part of the judgment

The Court:

1. Dismisses the action.
2. Orders Reliance Industries Ltd to pay the costs.

⁽¹⁾ OJ C 86, 8.4.2006.

Judgment of the Court of First Instance of 24 September 2008 — Oakley v OHIM — Venticinque (O STORE)

(Case T-116/06) ⁽¹⁾

(Community trade mark — Invalidity proceedings — Community word mark O STORE — Earlier national word mark THE O STORE — Comparison of services provided in connection with retail trade with corresponding goods — Relative ground for refusal — Article 8(1)(b) of Regulation (EC) No 40/94 — Application for alteration made by the intervener — Article 134(3) of the Rules of Procedure of the Court of First Instance)

(2008/C 285/64)

Language of the case: English

Parties

Applicant: Oakley, Inc. (One Icon, Foothill Ranch, United States) (represented by: M. Huth-Dierig and M. Nentwig, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Venticinque Ltd (Hailsham, East Sussex, United Kingdom) (represented by: D. Caneva, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 17 January 2006 (Joined Cases R 682/2004-1 and R 685/2004-1) concerning invalidity proceedings between Venticinque Ltd and Oakley, Inc.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Oakley, Inc., to pay the costs, except those incurred by the intervener;
3. Orders Venticinque Ltd to pay its own costs.

⁽¹⁾ OJ C 154, 1.7.2006.

Order of the Court of First Instance of 17 September 2008 — Neurim Pharmaceuticals (1991) Ltd v OHIM — Eurim-Pharm Arzneimittel (Neurim PHARMACEUTICALS)

(Case T-218/06) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for a Community figurative mark Neurim PHARMACEUTICALS — Earlier Community and national word marks EURIM-PHARM — Language of appeal proceedings — Time-limits — Admissibility of an appeal to the Board of Appeal — Principle of proportionality — Continuation of proceedings — Restitutio in integrum — Articles 59, 78 and 78a of Regulation (EC) No 40/94 — Rule 48(1)(c) and (2), Rule 49(1) and Rule 96(1) of Regulation (EC) No 2868/95)

(2008/C 285/65)

Language of the case: German

Parties

Applicant: Neurim Pharmaceuticals (1991) Ltd (Tel Aviv, Israel) (represented by: M. Kinkeldey, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (represented by: G. Schneider, Agent)