

Judgment of the Court of First Instance of 15 October 2008 — Le Canne v Commission

(Case T-375/05) ⁽¹⁾

(Agriculture — Community financial assistance — Financial irregularity vitiating the request for payment of the balance — Decision to reduce the assistance — Expiry of the limitation period — Action for annulment and damages)

(2008/C 313/48)

Language of the case: French

Parties

Applicant: Azienda Agricola 'Le Canne' Srl (Rovigo, Italy) (represented by: G. Carraro and F. Mazzonetto, lawyers)

Defendant: Commission of the European Communities (represented by: C. Cattabriga and L. Visaggio, Agents, and A. Dal Ferro, lawyer)

Re:

Application to annul Decision C(2005) 2939 of 26 July 2005 reducing the outstanding balance of Community financial assistance granted to the application for the modernisation and renovation of its fish farm facilities and an application for compensation for harm arising from that reduction.

Operative part of the judgment

The Court:

1. Annuls Commission Decision C(2005) 2939 of 26 July 2005 in so far as it reduces the Community financial assistance granted to Azienda Agricola 'Le Canne' Srl for project IT/0016/90/02 on account of the imputation to the eligible expenditure to that assistance of the profit made by Giradello SpA for the performance of works related to that project.;
2. Dismisses the action for damages
3. Orders the Commission to pay the costs.

⁽¹⁾ OJ C 296, 26.11.2005.

Order of the Court of First Instance of 15 October 2008 — Powerserv Personalservice v OHIM — Manpower (MANPOWER)

(Case T-405/05) ⁽¹⁾

(Community trade mark — Invalidity proceedings — Community word mark MANPOWER — Absolute grounds for refusal — Descriptive character — Partial alteration — Distinctive character acquired through use — Article 7(1)(c), Article 51(1) and (2) and Article 63(3) of Regulation (EC) No 40/94)

(2008/C 313/49)

Language of the case: German

Parties

Applicant: Powerserv Personalservice GmbH, formerly Manpower Personalservice GmbH (Sankt Pölten, Austria) (represented by: B. Kuchar, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, and intervener before the Court of First Instance: Manpower, Inc. (Milwaukee, Wisconsin, United States) (represented initially by: R. Moscona, Solicitor, subsequently by R. Moscona and A. Bryson, Barrister, and lastly by A. Bryson and V. Marsland, Solicitor)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 22 July 2005 (Case R 499/2004-4) relating to an application for a declaration that Community trade mark No 76059, MANPOWER, is invalid.

Operative part of the order

1. Alters the Decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 22 July 2005 in Case R 499/2004-4 relating to an application for a declaration that Community trade mark No 76059, MANPOWER, is invalid, to the effect that that trade mark is not descriptive, in the Netherlands, Sweden, Finland or Denmark, of the goods and services for which it was registered. The operative part of that decision is maintained.
2. Dismisses, as to the remainder, the application by Manpower Inc. seeking alteration of the above decision of the Board of Appeal of OHIM.

3. Dismisses the action.

4. Orders Powerserv Personalservice GmbH to pay the costs.

(¹) OJ C 22, 28.1.2006.

Judgment of the Court of First Instance of 21 October 2008 — Cassegrain v OHIM (Shape of a bag)

(Case T-73/06) (¹)

(Community trade mark — Application for a Community figurative mark — Shape of a bag — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 40/94)

(2008/C 313/50)

Language of the case: French

Parties

Applicant: Jean Cassegrain SAS (Paris, France) (represented by: Y. Coursin and T. van Innis, lawyers)

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

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 8 December 2005 (Case R 687/2005-2) concerning the registration of the figurative sign Shape of a bag as a Community trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Jean Cassegrain SAS to pay the costs.

(¹) OJ C 108, 6.5.2006.

Judgment of the Court of First Instance of 23 October 2008 — TIM and TTV v OHIM — PAST PERFECT

(Case T-133/06) (¹)

(Community trade mark — Invalidity proceedings — Community word mark PAST PERFECT — Rejection of the application for a declaration of invalidity — Article 7(1)(b), (c) and (d) of Regulation (EC) No 40/94 — Article 7(2))

(2008/C 313/51)

Language of the case: English

Parties

Applicants: TIM The International Music Company AG and TTV Tonträger-Vertrieb-2000 GmbH (Hamburg, Germany) (represented initially by J. Wendt and G. Kukuk, and subsequently by J. Wendt, lawyers)

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

Other party to the proceedings before the Board of Appeal of OHIM intervening before the Court of First Instance: Past Perfect Ltd (Bucknell, Oxfordshire, United Kingdom) (represented initially by S. Disraeli, and subsequently by K. Tinkler, Solicitors)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 3 February 2006 (Case R 150/2005-1), relating to invalidity proceedings between TIM The International Music Company AG and TTV Tonträger-Vertrieb-2000 GmbH, on the one hand, and Past Perfect Ltd, on the other.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders TIM The International Music Company AG and TTV Tonträger-Vertrieb-2000 GmbH to pay the costs.

(¹) OJ C 154, 1.7.2006.