

**Judgment of the Court of First Instance of 8 July 2009 —  
DSV Road v Commission**

(Case T-219/07) <sup>(1)</sup>

**(Customs union — Importation of diskettes originating in Thailand — Post-clearance recovery of import duties — Application for remission of import duties — Articles 220(2)(b) and 239 of Regulation (EEC) No 2913/92)**

(2009/C 205/58)

Language of the case: Dutch

**Parties**

**Applicant:** DSV Road NV (Puurs, Belgium) (represented by: A. Poelmans, A. Calewaert and R. de Wit, lawyers)

**Defendant:** Commission of the European Communities (represented by: M. Konstantinidis and S. Schönberg, Agents, assisted by F. Tuytschaever, lawyer)

**Re:**

Application for annulment of the Commission decision of 24 April 2007 informing the Belgian authorities that they may proceed with post-clearance recovery of import duties on diskettes originating in Thailand and that there are no grounds for granting remission of those duties (file reference REC 05/02).

**Operative part of the judgment**

The Court:

1. Dismisses the application;
2. Orders DSV Road NV to pay the costs.

<sup>(1)</sup> OJ C 211, 8.9.2007.

**Judgment of the Court of First Instance of 8 July 2009 —  
Laboratorios Del Dr. Esteve v OHIM — Ester C (ESTER-E)**

(Case T-230/07) <sup>(1)</sup>

**(Community trade mark — Opposition proceedings — Application for Community word mark ESTER-E — Earlier Community figurative mark ESTER-E — Relative ground for refusal — No likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94 (now Article 8(1)(b) of Regulation No 207/2009))**

(2009/C 205/59)

Language of the case: English

**Parties**

**Applicant:** Laboratorios Del Dr. Esteve SA (Barcelona (Spain)) (represented by: K. Manhaeve, lawyer)

**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:** The Ester C Company (Prescott, Arizona, United States) (represented by: initially R. Bird, Solicitor, and subsequently by H. Wistam, lawyer)

**Re:**

Action brought against the decision of the Second Board of Appeal of OHIM of 17 April 2007 (Case R 737/2006-2) concerning opposition proceedings between Laboratorios Del Dr. Esteve, SA and The Ester C Company.

**Operative part of the judgment**

The Court:

1. Dismisses the action.
2. Orders Laboratorios Del Dr. Esteve, SA to pay the costs.

<sup>(1)</sup> OJ C 199, 25.8.2007.

**Judgment of the Court of First Instance of 9 July 2009 —  
Ristic and Others v Commission**

(Case T-238/07) <sup>(1)</sup>

**(Animal Health — Protective measures — Decision 2007/362/EC — Action for annulment — No need to adjudicate — Action for damages — Principle of proportionality — Principle of protection of legitimate expectations — Duty of care — Right to property and right to carry on economic activity)**

(2009/C 205/60)

Language of the case: German

**Parties**

**Applicants:** Ristic AG (Burgthann, Germany); Piratic Meeresfrüchte Import GmbH (Burgthann, Germany); Prime Catch Seafood GmbH (Burgthann, Germany); and Rainbow Export Processing, SA (represented by: H. Schmidt, lawyer)

**Defendant:** Commission of the European Communities (represented by: F. Erlbacher and A. Szmytkowska, Agents)

**Re:**

First, application for annulment of Commission Decision 2007/362/EC of 16 May 2007 amending Decision 2004/432/EC on the approval of residue monitoring plans submitted by third countries in accordance with Council Directive 96/23/EC (OJ 2007 L 138, p. 18), and, second, application for damages.