Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The word mark 'LAURA ASHLEY' for various goods in classes 3, 18, 24 and 25

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited: International trade mark registration No 311 675 of the figurative mark 'Ashley's' for goods in class 25; Italian trade mark registration No 517 151 of the figurative mark 'Ashley's' for goods in class 3, 18, 24 and 25; international trade mark registration No 646 926 of the figurative mark 'Ashley's il primo Cashmere Italiano' for goods in class 25

Decision of the Opposition Division: Upheld the opposition in its entirety

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 8(5) of Council Regulation No 40/94 as the Board of Appeal failed to establish whether the applicant was using the Community trade mark applied for without due cause.

Appeal brought on 1 August 2008 by Kurt-Wolfgang Braun-Neumann against the judgment of the Civil Service Tribunal delivered on 23 May 2008 in Case F-79/07, Braun-Neumann v Parliament

(Case T-306/08 P)

(2008/C 247/43)

Language of the case: German

Parties

Appellant: Kurt-Wolfgang Braun-Neumann (Lohr am Main, Germany) (represented by: P. Ames, Rechtsanwalt)

Other party to the proceedings: European Parliament

Form of order sought by the appellant

— Set aside the order of the European Union Civil Service Tribunal of 23 May 2008 in Case F-79/07;

— rule on the merits and uphold the appellant's original application and therefore order the Parliament to pay him with retroactive effect from 1 August 2004 the other half of the survivor's pension in right of Mrs Mandt in the monthly sum of EUR 1 670,84 plus interest at the rate applied by the European Central Bank on the marginal lending facility, increased by 3 %;

— in the alternative, refer the case back to the Civil Service Tribunal of the European Union for judgment.

Pleas in law and main arguments

The appeal is directed against the Civil Service Tribunal's order of 23 May 2008 in Case F-79/07 *Braun-Neumann* v *Parliament*, dismissing as inadmissible the action brought by the appellant.

The appellant submits in support of his appeal that the Civil Service Tribunal erred in law in its interpretation of Article 90(2) of the Staff Regulations of Officials of the European Communities, since its interpretation infringes general principles of Community law. In the appellant's view, the Tribunal's interpretation of a letter as an act adversely affecting it is incorrect. Further, the principle of legal certainty can be satisfied only if the absence of information about available legal remedies is regarded as prejudicial to the determination of when the period for lodging the complaint commenced, since otherwise the litigant's rights would be undermined. Lastly, the Tribunal's interpretation should be regarded as disproportionate in view of the consequences for the appellant.

Action brought on 8 August 2008 — BSH Bosch und Siemens Hausgeräte v OHIM (executive edition)

(Case T-310/08)

(2008/C 247/44)

Language in which the application was lodged: German

Parties

Applicant: BSH Bosch und Siemens Hausgeräte GmbH (Munich, Germany) (represented by: S. Biagosch, Rechtsanwalt)

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

Form of order sought

— annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 June 2008 in Case R-845/2007-1;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to bear its own costs and to pay those of the applicant.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'executive edition' for goods in Classes 7, 9 and 11 (application No 4 908 182).

Decision of the Examiner: rejection of the application.

Decision of the Board of Appeal: dismissal of the appeal.

Pleas in law: infringement of Article 7(1)(b) of Regulation (EC) No 40/94 ([1]), as the mark applied for has the requisite minimum level of distinctiveness.

([1]) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

Action brought on 15 August 2008 — Melli Bank v Council

(Case T-332/08)

(2008/C 247/45)

Language of the case: English

Parties

Applicant: Melli Bank plc (London, United Kingdom) (represented by: R. Gordon QC, M. Hoskins, Barrister, and T. Din, Solicitor)

Defendant: Council of the European Union

Form of order sought

— Paragraph 4, section 8, of the annex to Council Decision 2008/475/EC concerning restrictive measures against Iran is declared void in so far as it relates to Melli Bank plc.

— If the Court finds that Article 7(2)(d) of the regulation is mandatory in effect, Article 7(2)(d) of Council Regulation 423/2007/EC concerning restrictive measures against Iran is declared to be inapplicable.

— The Council should pay the applicant's costs of these proceedings.

Pleas in law and main arguments

In the present case the applicant seeks the partial annulment of Council Decision 2008/475/EC of 23 June 2008 ([1]) implementing Article 7(2) of Council Regulation (EC) No 423/2007 concerning restrictive measures against Iran in so far as the applicant is included on the list of natural and legal persons, entities and bodies whose funds and economic resources are frozen in accordance with this provision. The applicant contested the same decision in Case T-246/08, *Melli Bank* v *Council* ([2]).

In support of its application in the present case, the applicant submits that the Council has infringed its obligation to state reasons, as it did not give any individual and specific reasons for the listing of the applicant. The applicant alleges that it has been listed, not because it has itself been involved in providing support to Iran's nuclear activities, but solely because it is a subsidiary of a parent company which is believed to have been involved in such activities.

The applicant further submits that, if Article 7(2)(d) of Council Regulation (EC) No 423/2007 ([3]) is to be interpreted as imposing an obligation on the Council to list every subsidiary owned or controlled by a parent company which has itself been included on the list of natural and legal persons, entities and bodies whose funds and economic resources are frozen, this provision should be declared inapplicable as it contravenes the principle of proportionality.

The applicant considers that a mandatory listing of the subsidiary is unnecessary and inappropriate to achieve the purposes of the regulation, as the listing of the parent company prevents a subsidiary based in the European Union from taking instructions from its parent company which would directly or indirectly circumvent the effect of the listing of the parent company.

Finally, the applicant claims that Article 7(2)(d) of the said Council regulation should be interpreted so as to give the Council a discretionary power to list a subsidiary of a listed parent company and not so as to impose an obligation on the Council in this sense.

([1]) OJ 2008 L 163, p. 29.
([2]) OJ 2008 C 197, p. 34.
([3]) Council Regulation (EC) No 423/2007 of 19 April 2007 concerning restrictive measures against Iran (OJ 2007 L 103, p. 1).

Order of the Court of First Instance of 14 July 2008 — Hotel Cipriani v Commission

(Case T-254/00 R)

(2008/C 247/46)

Language of the case: Italian

The President of the Court of First Instance has ordered that the case be removed from the register.

Order of the Court of First Instance (Seventh Chamber) of 10 July 2008 — Cornwell v Commission

(Case T-102/04) ([1])

(2008/C 247/47)

Language of the case: French

The President of the Court of First Instance (Seventh Chamber) has ordered that the case be removed from the register.

([1]) OJ C 106, 30.4.2004.