

V

(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Judgment of the Court (First Chamber) of 22 September 2011 — Kingdom of Belgium v Deutsche Post AG, DHL International, European Commission

(Case C-148/09 P) ⁽¹⁾

(Appeal — Action for annulment — State aid — Article 88(3) EC — Regulation (EC) No 659/1999 — Commission decision not to raise objections — Concept of ‘doubts’ — Services of general economic interest)

(2011/C 331/02)

Language of the case: German

Parties

Appellant: Kingdom of Belgium (represented by: C. Pochet and T. Materne, Agents, and J. Meyers, advocaat)

Other parties to the proceedings: Deutsche Post AG (represented by: T. Lübbig and J. Sedemund, Rechtsanwälte), DHL International (represented by: T. Lübbig and J. Sedemund, Rechtsanwälte), European Commission (B. Martenczuk and D. Grespan, Agents)

Re:

Appeal brought against the judgment of the Court of First Instance (Second Chamber) of 10 February 2009 in Case T-388/03 *Deutsche Post and DHL International v Commission*, by which the Court annulled Commission Decision C(2003) 2508 final of 23 July 2003 not to raise objections, following the preliminary examination procedure provided for in Article 88(3) EC, to several measures adopted by the Belgian authorities in favour of La Poste SA — Compensation of net costs of services of general economic interest — Certain circumstances wrongly classified as evidence of serious difficulties necessitating the initiation of the formal investigation procedure — Inadmissible pleas taken into consideration — Breach of the principle of legal certainty

Operative part of the judgment*The Court:*1. *Dismisses the appeal;*2. *Orders the Kingdom of Belgium and the European Commission to pay the costs.*⁽¹⁾ OJ C 167, 18.7.2009.

Judgment of the Court (First Chamber) of 22 September 2011 (reference for a preliminary ruling from the High Court of Justice (England and Wales) (Chancery Division)) — Interflora Inc, Interflora British Unit v Marks & Spencer plc, Flowers Direct Online Ltd

(Case C-323/09) ⁽¹⁾

(Trade marks — Keyword advertising on the internet — Selection by the advertiser of a keyword corresponding to a competitor’s trade mark with a reputation — Directive 89/104/EEC — Article 5(1)(a) and (2) — Regulation (EC) No 40/94 — Article 9(1)(a) and (c) — Condition that one of the trade mark’s functions be adversely affected — Detriment to the distinctive character of a trade mark with a reputation (‘dilution’) — Unfair advantage taken of the distinctive character or repute of that trade mark (‘free-riding’))

(2011/C 331/03)

Language of the case: English

Referring court

High Court of Justice (Chancery Division)

Parties to the main proceedings*Applicants:* Interflora Inc, Interflora British Unit*Defendants:* Marks & Spencer plc, Flowers Direct Online Ltd**Re:**

Reference for a preliminary ruling — Interpretation of Article 5(1)(a) and (2) of First Council Directive 89/104/EEC of 21 December 1988 to approximate the laws of the Member States relating to trade marks (OJ 1989 L 40, p. 1), Article