

Form of order sought

— Annul the Commission Decision of 21 October 2008 on State aid C 20/2008 (ex N 62/2008) which Italy is planning to implement through a modification of scheme N 59/2004 concerning a temporary defensive mechanism to ship-building, registered as number C(2008)6015 final, notified to the Italian Republic on 22 October 2008 by note of 22 October 2008 No SG-Greffe (2008) D/206436.

Pleas in law and main arguments

The decision contested in the present case is the same as that contested in Case T-584/08 *Cantiere Navale De Poli v Commission*.

The pleas in law and main arguments are similar to those put forward in that case.

Action brought on 5 January 2009 — UniCredit v OHIM — Union Investment Privatfonds (UniCredit)

(Case T-4/09)

(2009/C 55/82)

Language in which the application was lodged: Italian

Parties

Applicant: UniCredit SpA (Rome, Italy) (represented by: G. Florida, lawyer, and R. Florida, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Union Investment Privatfonds GmbH (Frankfurt am Main, Germany)

Form of order sought

— Annul the decision of the Second Board of Appeal of OHIM delivered on 3 November 2008 in Case R 1449/2006-2, relating to opposition proceedings No B 699.746.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant.

Community trade mark concerned: Multi-coloured figurative mark '1 UniCredit' (the number one being 45° inclined to the right and impressed on the spherical logo) (registration application No 2.911.105), for goods and services in Classes 9, 16, 35, 36, 38, 39, 41 and 42.

Proprietor of the mark or sign cited in the opposition proceedings: Union Investment Privatfonds GmbH.

Mark or sign cited in opposition: German word marks 'UniSECTOR', 'UniDynamicFonds' and 'UniGarant', for services in Classes 35 and 36.

Decision of the Opposition Division: Opposition upheld in respect of the services in Class 36.

Decision of the Board of Appeal: Appeal dismissed.

Pleas in law: Misapplication of Article 8(1)(b) of Regulation (EC) No 40/94 on the Community trade mark. The applicant argues that the contested decision did not take account of the powers of perception of the public at which the services covered are directed or of the non-existent or minimal distinctiveness of the prefix 'Uni'.

Appeal brought on 15 January 2009 by Luigi Marcuccio against the order of the Civil Service Tribunal delivered on 4 November 2008 in Case F-133/06 Marcuccio v Commission

(Case T-9/09 P)

(2009/C 55/83)

Language of the case: Italian

Parties

Appellant: Luigi Marcuccio (Tricase, Italy) (represented by G. Cipressa, lawyer)

Other party to the proceedings: Commission of the European Communities

Form of order sought by the appellant

— In every case

(A.1) set aside in its entirety and without exception the order under appeal;

(A.2) declare the action at first instance to be admissible in full.

— As a primary remedy:

(B.1) uphold in their entirety and without exception the appellant's pleas in law set out in the application at first instance;

(B.2) order the respondent to pay the appellant's costs relating to this appeal and to the proceedings at first instance;

— or, in the alternative:

(B.3) refer the case back to the Civil Service Tribunal, sitting in a different formation, for a fresh decision.