Pleas in law: The contested decision fails to take account of the special circumstances of the present case and, instead, applies the established principles concerning the issues of the similarity of signs and of protected goods and services in the light of the likelihood of confusion in a purely formulaic and mechanical fashion, without sufficient regard to the specific aspects of the case and the requisite global assessment of all the circumstances.

Action brought on 3 August 2010 — Iliad and Others v Commission

(Case T-325/10)

(2010/C 288/82)

Language of the case: French

Parties

Applicants: Iliad SA (Paris, France), Free infrastructure SAS (Paris) and Free SA (Paris) (represented by: T. Cabot, lawyer)

Defendant: European Commission

Form of order sought

— declare the present application admissible;

— annul European Commission Decision of 30 September 2009 approving the public financing of EUR 59 million for the planned very-high-speed broadband network in the department of Hauts-de-Seine, pursuant to Article 263 TFEU;

— order the Commission to pay the costs.

Pleas in law and main arguments

The applicant seek the annulment of Commission Decision C(2009) 7426 final of 30 September 2009, [1] declaring that the compensation for a public service charge of EUR 59 million, granted by the French authorities to a consortium of undertakings for the establishment and operation of a very-high-speed broadband electronic communications network (THD 92 project) in the department of Hauts-de-Seine does not constitute State aid.

In support of their action the applicants put forward three pleas in law:

— infringement of Article 107(1) TFEU, in so far as the Commission has not complied with any of the four criteria set out in the *Altmark* [2] case-law holding that the measure concerned did not constitute State aid;

— infringement of the obligation to state reasons for a decision, in so far as the contested decision does not contain sufficient evidence to conclude that all the conditions for the application of the *Altmark* case-law have been fulfilled;

— infringement of the obligation to initiate the formal investigation procedure provided for in Article 108(2) TFEU, in so far as all the evidence obtained in the preliminary examination procedure, documents describing the size and complexity of the examination to be carried out and the partially incomplete and inadequate content of the contested decision, show that the Commission took the contested decision despite the fact that it experienced serious difficulties in assessing whether the measure concerned was compatible with the common market.

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[1] State aid N 331/2008 — France.

[2] Case C-280/00 *Altmark Trans GmbH and Regierungspräsidium Magdeburg* [2003] ECR I-7747.

Action brought on 10 August 2010 — Fraas v OHIM (Light grey, dark grey, beige, dark red and brown coloured checked pattern)

(Case T-326/10)

(2010/C 288/83)

Language in which the application was lodged: German

Parties

Applicant: V. Fraas GmbH (Helmbrechts-Wüstenselbitz, Germany) (represented by G. Würtenberger and R. Kunze, lawyers)

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

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 7 June 2010 in Case R 188/2010-4;

— Order the Office for Harmonisation in the Internal Market to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark representing a light grey, dark grey, beige, dark red and brown coloured checked pattern, for goods in Classes 18, 24 and 25.

Decision of the Examiner: Registration was refused.

Decision of the Board of Appeal: The appeal was dismissed.

Pleas in law: Infringement of Article 7(1)(b) in conjunction with Article 7(2) of Regulation (EC) No 207/2009 [1] since the Community trade mark concerned does have distinctive character, and infringement of Articles 75 and 76 of Regulation (EC) No 207/2009 as the Board of Appeal did not address the applicant's extensive factual and legal submissions.

[1] Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

Action brought on 10 August 2010 — Fraas v OHIM (Black, dark grey, light grey and dark red coloured checked pattern)

(Case T-327/10)

(2010/C 288/84)

Language in which the application was lodged: German

Parties

Applicant: V. Fraas GmbH (Helmbrechts-Wüstenselbitz, Germany) (represented by G. Würtenberger and R. Kunze, lawyers)

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

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 7 June 2010 in Case R 189/2010-4;

— Order the Office for Harmonisation in the Internal Market to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark representing a black, dark grey, light grey and dark red coloured checked pattern, for goods in Classes 18, 24 and 25.

Decision of the Examiner: Registration was refused.

Decision of the Board of Appeal: The appeal was dismissed.

Pleas in law: Infringement of Article 7(1)(b) in conjunction with Article 7(2) of Regulation (EC) No 207/2009 [1] since the Community trade mark concerned does have distinctive character, and infringement of Articles 75 and 76 of Regulation (EC) No 207/2009 as the Board of Appeal did not address the applicant's extensive factual and legal submissions.

[1] Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (OJ 2009 L 78, p. 1).

Action brought on 10 August 2010 — Fraas v OHIM (Dark grey, light grey, beige and dark red coloured checked pattern)

(Case T-328/10)

(2010/C 288/85)

Language in which the application was lodged: German

Parties

Applicant: V. Fraas GmbH (Helmbrechts-Wüstenselbitz, Germany) (represented by G. Würtenberger and R. Kunze, lawyers)

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

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 7 June 2010 in Case R 190/2010-4;

— Order the Office for Harmonisation in the Internal Market to pay the costs of the proceedings.