

Trade mark right of applicant for the declaration: Italian word mark 'DANIEL & MAYER MADE IN ITALY' (No 472351), to designate goods in Class 25, and the unregistered word mark 'DANIEL & MAYER', used in Italy in relation to the 'manufacture and sale of garments and accessories'

Decision of the Cancellation Division: Application for a declaration of invalidity upheld in part

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Infringement and misapplication of Article 8 of Regulation No 207/2009

Action brought on 8 October 2010 — MOL v Commission

(Case T-499/10)

(2010/C 346/102)

Language of the case: English

Parties

Applicant: MOL Magyar Olaj- és Gázipari Nyrt. (Budapest, Hungary) (represented by: N. Niejahr, lawyer, F. Carlin, Barrister and C. van der Meer, lawyer)

Defendant: European Commission

Form of order sought

- annul the contested decision; or
- in the alternative, annul the contested decision in so far as it orders the recovery of amounts from the applicant; and
- order the defendant to pay its own costs and the applicant's costs in connection with these proceedings.

Pleas in law and main arguments

By means of the present application, the applicant seeks the annulment of Commission Decision C(2010) 3553 final of 9 June 2010, declaring incompatible with the common market the aid implemented by the Hungarian authorities in favour of the Hungarian Oil & Gas Plc ('MOL') as a result of an agreement between MOL and the Hungarian State which allows the company to be actually exempted from the increased level of mining fee following an amendment to the Hungarian Mining Act in January 2008 [State aid C 1/09 (ex NN 69/08)]. The applicant is identified in the contested decision as a beneficiary of the alleged State aid and the decision orders Hungary to recover the aid, including interest, from the applicant.

The applicant puts forward three pleas in law in support of its claims.

First, it argues that the defendant erred in law when it found that the prolongation of the applicant's mining rights in 2005

viewed together with the subsequent 2008 amendment of the Mining Act constitute unlawful and incompatible State aid and ordered the recovery of this alleged State aid with interest from the applicant. Specifically the applicant contends that the defendant violated Article 107(1) TFEU in determining that:

- the 2005 prolongation agreement and the 2008 amendment of the Mining Act together are one State aid measure pursuant to Article 107(1) TFEU;
- the alleged aid measure is selective based on the erroneous conclusion that the appropriate system of reference is the authorization regime rather than the Mining Act;
- the alleged aid measure conferred an advantage on the applicant despite the fact that the applicant paid higher mining fees and charges than would have been due absent the alleged aid measure or pursuant to the 2008 amendment of the Mining Act and, in any event, Hungary acted as a market operator and the prolongation agreement was justified by economic considerations;
- the alleged aid measure distorted competition even though other market participants did not pay higher fees pursuant to the Mining Act as amended.

Second, and in the alternative, the applicant submits that the defendant infringed Article 108(1) TFEU by failing to assess the prolongation agreement (which was not a State aid measure between its conclusion in 2005 and the 2008 amendment of the Mining Act and became State aid only with the entry into force of the 2008 amendment of the Mining Act) under the rules applicable to existing aid.

Third and alternatively, in the event that the Court should find that the measure constitutes new aid, the applicant claims that the defendant violated Article 14(1) of the Procedural Regulation by ordering recovery, because the recovery of amounts from the applicant violates the applicant's legitimate expectations in the stability of the prolongation agreement and the principle of legal certainty.

Action brought on 19 October 2010 — Dorma v OHIM — Puertas Doorsa (doorsa FÁBRICA DE PUERTAS AUTOMÁTICAS)

(Case T-500/10)

(2010/C 346/103)

Language in which the application was lodged: English

Parties

Applicant: Dorma GmbH & Co. KG (Ennepetal, Germany) (represented by: P. Koch Moreno, lawyer)

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