

GENERAL COURT

Judgment of the General Court of 16 January 2014 — BP Products North America v Council

(Case T-385/11) ⁽¹⁾

(Dumping — Subsidies — Imports of biodiesel originating in the United States — Circumvention — Article 13 of Regulation (EC) No 1225/2009 — Article 23 of Regulation (EC) No 597/2009 — Slightly modified like product — Legal certainty — Misuse of powers — Manifest errors of assessment — Obligation to state reasons — Equal treatment — Principle of sound administration)

(2014/C 52/59)

Language of the case: English

Parties

Applicant: BP Products North America Inc. (Naperville, Illinois, United States) (represented initially by C. Farrar, Solicitor, H.-J. Prieß, B. Sachs and M. Schütte, lawyers, and subsequently by C. Farrar, H.-J. Prieß, M. Schütte and K. Arend, lawyer)

Defendant: Council of the European Union (represented by: J.-P. Hix, acting as Agent, assisted by B. O'Connor, Solicitor, and S. Gubel, lawyer)

Interveners in support of the defendant: European Commission (represented by: M. França and A. Stobiecka-Kuik, acting as Agents), and by European Biodiesel Board (EBB) (represented by: O. Prost and M.-S. Dibling, lawyers)

Re:

Application for the partial annulment, first, of Council Implementing Regulation (EU) No 443/2011 of 5 May 2011 extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive countervailing duty imposed by Regulation (EC) No 598/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ 2011 L 122, p. 1) and, secondly, of Council Implementing Regulation (EU) No 444/2011 of 5 May 2011 extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 on imports of biodiesel originating in the United States of America to imports of biodiesel consigned from Canada, whether declared as originating in Canada or not, and extending the definitive anti-dumping duty imposed by Regulation (EC) No 599/2009 to imports of biodiesel in a blend containing by weight 20 % or less of biodiesel originating in the United States of America, and terminating the investigation in respect of imports consigned from Singapore (OJ 2011 L 122, p. 12), in so far as those regulations affect the applicant.

Operative part of the judgment

The Court:

1. Dismisses the action;

2. Orders BP Products North America Inc. to bear its own costs and to pay those of the Council of the European Union and the European Biodiesel Board (EBB);

3. Orders the European Commission to bear its own costs.

⁽¹⁾ OJ C 282, 24.9.2011.

Judgment of the General Court of 16 January 2014 — Aloe Vera of America v OHIM — Detimos (FOREVER)

(Case T-528/11) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for the Community figurative mark FOREVER — Earlier national figurative mark 4 EVER — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 — Genuine use of the earlier mark — Article 42(2) and (3) of Regulation No 207/2009)

(2014/C 52/60)

Language of the case: English

Parties

Applicant: Aloe Vera of America, Inc. (Dallas, Texas, United States) (represented by: R. Niebel and F. Kerl, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. Crespo Carrillo, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Detimos — Gestão Imobiliária, SA (Carregado, Portugal) (represented by: V. Caires Soares, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 8 August 2011 (Case R 742/2010-4), relating to opposition proceedings between Diviril — Distribuidora de Viveres do Ribatejo, L^{da} and Aloe Vera of America, Inc.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Aloe Vera of America, Inc. to pay the costs, including those incurred by Detimos — Gestão Imobiliária, SA in the course of the proceedings before the Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).

⁽¹⁾ OJ C 362, 10.12.2011.