

Form of order sought

The applicants claim that the Court should:

- annul the Commission's decision of 23 March 2011 (C 28/2005), which declared the State aid that Germany had implemented in favour of Glunz AG and OSB Deutschland GmbH, in the amount of EUR 69 797 988, to be compatible with the internal market within the meaning of Article 107(3)(a) TFEU;
- order the Commission to bear its own costs and to pay the applicants' costs.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. First plea in law, alleging infringement of the TFEU Treaty or the EC Treaty or of a rule of law which has to be applied when it is implemented

In the first plea the applicants submit that the Commission did not comply with the rules in the Multisectoral framework on regional aid for large investment projects (OJ 1998 C 107, p. 7) ('the Multisectoral framework') in that it

- did not determine a maximum allowable aid intensity as required, in the applicants' opinion, by point 3.1 of the Multisectoral framework;
- established the annual growth rates for chipboards in accordance with point 7.8 of the Multisectoral framework on the basis of incorrect periods and thus arrived at an excessively high competition factor;
- combined different competition factors in respect of the same project and therefore departed from the legal framework of point 3.10 of the Multisectoral framework.

2. Second plea in law, alleging misuse of powers

In the second plea the applicants submit that the Commission misused its powers in assessing the aid as it did not adhere to the requirements which it itself had established.

Action brought on 28 October 2011 — Symbio Gruppe v OHIM — ADA Cosmetic (SYMBIOTIC CARE)

(Case T-562/11)

(2012/C 13/38)

Language in which the application was lodged: German

Parties

Applicant: Symbio Gruppe GmbH & Co. KG (Herborn, Germany) (represented by: A. Schulz and C. Onken, lawyers)

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

Other party to the proceedings before the Board of Appeal: ADA Cosmetic GmbH (Kehl, Germany)

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 18 August 2011 in Case R 2121/2010-4;
- order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: ADA Cosmetic GmbH.

Community trade mark concerned: International Registration of a figurative mark containing the word element 'SYMBIOTIC CARE' for goods in Classes 3, 5, 29 and 30.

Proprietor of the mark or sign cited in the opposition proceedings: The applicant.

Mark or sign cited in opposition: Word and figurative marks 'SYMBIOFLOR' and 'SYMBIOLACT', international registration of the word mark 'SYMBIOFEM' and figurative mark 'SYMBIOVITAL' for goods in Classes 1, 3, 5, 29 and 32.

Decision of the Opposition Division: Rejection of the opposition.

Decision of the Board of Appeal: Dismissal of the appeal.

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009, since there is a likelihood of confusion between the marks at issue, and infringement of Article 75 of Regulation No 207/2009, since the Board of Appeal disregarded the fact that the trade marks on which the opposition was based form a family of marks.