

Judgment of the General Court of 9 September 2014 — Biscuits Poult v OHIM — Banketbakkerij Merba (Biscuit)

(Case T-494/12) ⁽¹⁾

(Community trade mark — Invalidity proceedings — Registered Community design representing a broken cookie — Ground for invalidity — Lack of individual character — Articles 4, 6 and Article 25(1)(b) of Regulation (EC) No 6/2002)

(2014/C 372/20)

Language of the case: French

Parties

Applicant: Biscuits Poult SAS (Montauban, France) (represented by: C. Chapoullié, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral)

Other party to the proceedings before the Board of Appeal of OHIM: Banketbakkerij Merba BV (Oosterhout, Netherlands) (represented by: M. Abello, lawyer)

Re:

Action brought against the decision of the Third Board of Appeal of OHIM of 2 August 2012 (Case R 914/2011-3) in relation to invalidity proceedings between Banketbakkerij Merba BV and Biscuits Poult SAS.

Operative part of the judgment

The Court:

- 1) Dismisses the action.
- 2) Orders Biscuits Poult SAS to bear its own expenses and to pay those incurred by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) and Banketbakkerij Merba BV.

⁽¹⁾ OJ C 26, 26.1.2013.

Judgment of the General Court of 10 September 2014 — DTM Ricambi v OHIM — STAR (STAR)

(Case T-199/13) ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community figurative mark STAR — Earlier international figurative mark STAR LODI — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009)

(2014/C 372/21)

Language of the case: Italian

Parties

Applicant: DTM Ricambi Srl (Bologna, Italy) (represented by: V. Catelli and A. Loffredo, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: L. Rampini and P. Bullock, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Società trasporti automobilistici regionali SpA (STAR) (Lodi, Italy) (represented by: F. Caricato, lawyer)

Re:

Action brought against the decision of the First Board of Appeal of OHIM of 24 January 2013 (Case R 0124/2012-1) concerning opposition proceedings between Società trasporti automobilistici regionali SpA (STAR) and DTM Ricambi Srl.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders DTM Ricambi Srl to pay the costs.*

⁽¹⁾ OJ C 156, 1.6.2013.

Action brought on 25 July 2014 — Estonia v Commission

(Case T-555/14)

(2014/C 372/22)

Language of the case: Estonian

Parties

Applicant: Republic of Estonia (represented by: N. Grünberg, acting as Agent)

Defendant: European Commission

Form of order sought

- annul the decision of the European Commission of 14 May 2014 (C(2014)3271 final) on the suspension of interim payments within the framework of the operational programme of support for Estonia from the European Fisheries Fund (EFF) for the 2007-2013 programme period;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on five pleas in law.

1. First plea in law, alleging that the Commission applied Articles 25(2) and 89 of Regulation No 1198/2006 ⁽¹⁾ wrongly.

The applicant claims that the interpretation the Commission gave to Article 25, according to which support for investments is justified only if the relevant technical indicators of a vessel are improved by means of them, so that the improvement goes beyond restoring the original condition of the vessel, does not correspond to the wording, meaning or objectives of that article. The wording of Article 25(2) leaves a broad discretion as to what sort of investments may be supported within the framework of the EFF. Since the applicant complied with the provisions of Article 25(2), the application of Article 89 and the suspension of interim payments for supporting the first priority axis of the operational programme are also inappropriate.

2. Second plea in law, alleging that the Commission infringed Article 88 of Regulation No 1198/2006.

The applicant criticises the Commission for not taking a decision on suspension of payments within six months from the notification of interruption of interim payments. According to the applicant, the Commission thereby infringed Article 88 of Regulation No 1198/2006 and contradicted its own guidelines concerning the interruption, suspension and financial correction of interim payments.

3. Third plea in law, alleging that the Commission infringed the principle of good administration.

The applicant claims that the Commission infringed the principle of good administration by adopting the contested decision, since (1) it did not assess carefully or take into account all the information provided by the applicant, (2) it did not check whether all the assumptions used in making its decision were correct, (3) it automatically treated all investments which were carried out for bringing amortised vessels into a better condition as routine maintenance, and (4) it wrongly assessed that those investments did not contribute to attaining the objectives laid down in Article 25(2).