

Action brought on 3 May 2013 — Matratzen Concord v OHIM — KBT (ARKTIS)

(Case T-258/13)

(2013/C 207/70)

Language in which the application was lodged: German

Parties

Applicant: Matratzen Concord GmbH (Cologne, Germany) (represented by: I. Selting, lawyer)

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

Other party to the proceedings before the Board of Appeal: KBT & Co. Ernst Kruchen agenzia commerciale società in accomandita (Locarno, Switzerland)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 March 2013 in Case R 2133/2011-4;
- Order the defendant to pay the costs including those incurred in the course of the proceedings.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: the word mark 'ARKTIS' for goods in Classes 20 and 24 — Community trade mark No 2 818 680

Proprietor of the Community trade mark: KBT & Co. Ernst Kruchen agenzia commercial società in accomandita

Party applying for revocation of the Community trade mark: the applicant

Decision of the Cancellation Division: the application was upheld in part

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Article 51(1)(a) of Regulation No 207/2009

Action brought on 7 May 2013 — France v Commission

(Case T-259/13)

(2013/C 207/71)

Language of the case: French

Parties

Applicant: French Republic (represented by: E. Belliard, D. Colas and C. Candat, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- partially annul Commission Decision No 2013/123/EU of 26 February 2013, excluding from European Union financing certain expenditure incurred by the Member States under the European Agricultural Fund for Rural Development (EAFRD), to the extent that it excludes expenditure incurred by the French Republic in the context of the aid Indemnités compensatoires des handicaps naturels (ICHN) (compensatory allowances for natural handicaps) (CANH) of the Plan de Développement Rural Hexagonal 2007-2013 for the financial years 2008 and 2009;
- in the alternative, partially annul Decision 2013/123/EU, first, to the extent that it excludes from European Union financing the part of the expenditure incurred by the French Republic in the context of the CANH aid for sheep which is not declared as aid for sheep and, secondly, to the extent that it excludes from European Union financing the part of the expenditure incurred by the French Republic in the context of the CANH aid for beef which have been inspected on the spot for the animal identification inspection or the inspection of beef premiums;
- order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging an infringement of Article 10(2) and (4) and Article 14(2) of Regulation No 1975, (¹) as the Commission held that the French Government had failed to fulfil its obligations concerning controls on the ground that it had failed to carry out, with respect to bovine animals and sheep for which a ewe premium had been requested, a count of those animals during on-the-spot controls in respect of the Compensatory Allowances for Natural Handicaps ('CANH aid'). That plea in law is divided into two parts in the context of which the applicant claims:
 - that the obligation to count animals during on-the-spot controls in respect of the CANH aid is contrary to the continuity of the criterion of load factors and the principle of equal treatment and
 - that the Commission wrongly interpreted Article 10(2) and (4) and Article 14(2) of Regulation No 1975/2006 by holding that the French control system was inadequate to determine compliance with the loading criterion.