

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

Other party to the proceedings before the Board of Appeal: Thomas Gramm (Bremen, Germany)

Form of order sought

— Annul the decision of the Cancellation Division of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 September 2011 (Ref: 4204 C) in the form of the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 13 May 2013 in Case R 1981/2011-4.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: Word mark 'Nano-Pad' for goods in Class 17 — Community trade mark No 8 228 421

Proprietor of the Community trade mark: Franko Dosen

Applicant for the declaration of invalidity of the Community trade mark: Thomas Gramm

Grounds for the application for a declaration of invalidity: Absolute grounds for invalidity under Article 52(1)(a) and (b) of Regulation No 207/2009

Decision of the Cancellation Division: The application for a declaration of invalidity was granted in part

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009

Action brought on 2 August 2013 — TVR Automotive v OHIM — TVR Italia (TVR)

(Case T-398/13)

(2013/C 274/40)

Language of the case: German

Parties

Applicant: TVR Automotive Ltd (Whiteley, United Kingdom) (represented by: A. von Mühlendahl and H. Hartwig, lawyers)

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

Other party to the proceedings before the Board of Appeal: TVR Italia Srl (Milan, Italy)

Form of order sought

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 14 May 2013 in Case R 823/2011-2;

— Dismiss the appeal of 14 April 2013 by TVR Italia Srl against the decision of the Opposition Division of OHIM of 14 February 2011, B 313 248;

— Order the defendant OHIM and TVR Italia Srl, if it joins the proceedings, to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: TVR Italia Srl

Community trade mark concerned: Figurative mark, containing the word elements 'TVR ITALIA', for goods and services in Classes 12, 25 and 37 — Community trade mark registration No 5 699 954

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

Mark or sign cited in opposition: National and Community word marks 'TVR' for goods and services in Classes 9, 11, 12, 25 and 41.

Decision of the Opposition Division: Opposition partially upheld

Decision of the Board of Appeal: Annulment of the decision of the Opposition Division and rejection of the opposition

Pleas in law:

— Infringement of Article 42(2) and (3) of Regulation No 207/2009;

— Infringement of the principle *res iudicata* or *ne bis in idem* and of Article 42(2) of Regulation No 207/2009, in conjunction with Article 15 of Regulation No 207/2009

Action brought on 8 August 2013 — NIIT Insurance Technologies v OHIM (SUBSCRIBE)

(Case T-404/13)

(2013/C 274/41)

Language of the case: German

Parties

Applicant: NIIT Insurance Technologies Ltd (London, United Kingdom) (represented by M. Wirtz, lawyer)

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

Defendant: European Commission and the European Union, represented in the present case by the European Commission

Form of order sought

- Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 June 2013 in Case R 1308/2012-5 concerning Community trade mark registration 010355527, Word: SUBSCRIBE and the preceding decision of the Trade Mark Department of OHIM of 22 May 2012, in so far as protection was denied to the mark;
- Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Word mark 'SUBSCRIBE' for goods and services in Classes 9, 16 and 42 — Community trade mark registration No 10 355 527

Decision of the Examiner: Rejection of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law:

- Infringement of Article 7(1)(b) and (2) of Regulation No 207/2009;
- Infringement of Article 83 of Regulation No 207/2009 in conjunction with the principle of equal treatment and Articles 6 and 14 of the European Convention for the Protection of Human Rights and Fundamental Freedoms, signed in Rome on 4 November 1950 in the version of Protocol No 11, which entered into force on 1 November 1998;
- Infringement of Article 56 of the Treaty on the Functioning of the European Union.

Action brought on 5 August 2013 — T & L Sugars and Sidul Açúcares v Commission

(Case T-411/13)

(2013/C 274/42)

Language of the case: English

Parties

Applicants: T & L Sugars Ltd (London, United Kingdom); and Sidul Açúcares, Unipessoal Lda (Santa Iria de Azóia, Portugal) (represented by: D. Waelbroeck, lawyer, and D. Slater, Solicitor)

Form of order sought

The applicants claim that the Court should:

- Annul a number of Commission regulations putting cane sugar refiners at a competitive disadvantage, namely (i) Regulations 505/2013 ⁽¹⁾ and 629/2013 ⁽²⁾ laying down exceptional measures as regards the release of out-of-quota sugar and isoglucose on the Union market at reduced surplus levy during marketing year 2012/2013; (ii) Regulations 574/2013 ⁽³⁾ and 677/2013 ⁽⁴⁾ fixing an allocation coefficient for available quantities of out-of-quota sugar to be sold on the Union market at reduced surplus levy; and (iii) Regulation 460/2013 ⁽⁵⁾ on the minimum customs duty to be fixed in response to the third partial invitation to tender and Regulation 542/2013 ⁽⁶⁾ on the minimum customs duty to be fixed in response to the fourth partial invitation to tender; and declare admissible and well founded the plea of illegality under Article 277 TFEU against Regulation 36/2013 ⁽⁷⁾ opening a standing invitation to tender for the 2012/2013 marketing year for imports of sugar of CN codes 1701 14 10 and 1701 99 10 at a reduced customs duty;
- In the alternative, declare the plea of illegality under Article 277 TFEU against Regulations 505/2013 and 629/2013 admissible and well founded;
- Declare Article 186(a) of Regulation 1234/2007 ⁽⁸⁾ (the Recast Regulation) illegal under Article 277 TFEU to the extent these do not correctly transpose the relevant provisions of Regulation 318/2006 ⁽⁹⁾;
- Condemn the EU as represented by the Commission to repair any damage suffered by the applicants as a result of the Commission's breach of its legal obligations and to set the amount of this compensation for the damage suffered by the Applicants during the period 1st April 2013 to 30th June 2013 at 42 261 036 EUR plus any ongoing losses suffered by the applicants after that date or any other amount reflecting the damage suffered or to be suffered by the applicants as further established by them in the course of this procedure especially to take due account of future damage, all the aforementioned amounts to be augmented by interest from the date of judgment by your Court until actual payment; and
- Order the Commission to pay all costs and expenses in these proceedings.