

Mark or sign cited in opposition: the word mark 'CryoSave' for goods in Classes 10, 42 and 44

Decision of the Opposition Division: the opposition was upheld in part

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 207/2009

Action brought on 6 September 2013 — Navarra de Servicios y Tecnologías v Commission

(Case T-487/13)

(2013/C 313/64)

Language of the case: Spanish

Parties

Applicant: Navarra de Servicios y Tecnologías SA (Pamplona, Spain) (represented by: A. Andérez González, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should annul the contested decision in so far as it affects the applicant, and order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of Article 107(1) TFEU.

The applicant alleges, in that respect, that there was no State aid, since in the present case there is no State intervention through the transfer of State resources, no advantage in favour of undertakings carrying out an economic activity and no distortion of competition or threat to trade between the Member States.

2. Second plea in law, alleging breach of Article 107(2) TFEU and of the Protocol on the system of public broadcasting in the Member States annexed to the Treaty of Amsterdam of 2 October 1997.

In this respect, the applicant alleges that

— the services of general economic interest, in respect of whose configuration, organisation and funding the Member States have a wide margin of discretion, are of a lawful nature.

— it did not obtain a more favourable competitive position;

— the *Altmark* criteria were observed in the present case, in that there are clearly defined, and expressly transferred, public service obligations and a detailed and an objective economic quantification was carried out that does not exceed the costs incurred in the discharge of the public service obligation.

3. Third plea in law, alleging breach of Article 107(3)(c) TFEU, in that there is an objective of common interest in the present case, in respect of which the disputed measure is suitable and proportionate and does not provoke unnecessary distortions on the market.

4. Fourth plea in law, alleging misuse of power between the objective of the contested decision and the ultimate purpose pursued through it, as well as a manifest disproportion between the theoretical aim pursued and the consequences of its application, which are contrary to the general interest and favour the commercial and economic interests of a specific operator or operators.
