

GENERAL COURT

Judgment of the General Court of 16 April 2018 — Polski Koncern Naftowy Orlen v EUIPO (shape of a petrol station)

(Cases T-339/15 to T-343/15) ⁽¹⁾

(European Union trade mark — Application for EU three-dimensional marks — Shape of a petrol station — Absolute ground for refusal — Distinctiveness — Article 65(4) of Regulation (EC) No 207/2009 (now Article 72(4) of Regulation (EU) 2017/1001) — Acts having fully upheld the applicant's claims — Binding nature of the grounds of an order for reference — Admissibility — Obligation to state reasons)

(2018/C 190/40)

Language of the case: Polish

Parties

Applicant: Polski Koncern Naftowy Orlen SA (Płock, Poland) (represented by: M. Siciarek, J. Rasiewicz and M. Kaczmarska, lawyers)

Defendant: European Union Intellectual Property Office (represented by: A. Folliard-Monguiral and E. Sliwinska, acting as Agents)

Re:

Five actions brought against the decisions of the Fifth Board of Appeal of EUIPO of 2 April 2015 (Cases R 2245/2014-5, R 2247/2014-5, R 2248/2014-5, R 2249/2014-5 and R 2250/2014-5) concerning applications for registration of three-dimensional signs formed by the shape of a petrol station as EU trade marks.

Operative part of the judgment

The Court:

1. Orders the joinder of Cases T-339/15 to T-343/15 for the purposes of the judgment;
2. Dismisses the actions as inadmissible in respect of the goods and services which do not form part of the usual range of petrol stations (aviation fuel, petroleum coke, xylenes and wholesale fuel);
3. Annuls the decisions of the Fifth Board of Appeal of the European Union Intellectual Property Office of 2 April 2015 (Cases R 2245/2014-5, R 2247/2014-5, R 2248/2014-5, R 2249/2014-5 and R 2250/2014-5) in respect of the goods and services other than those which do not form part of the usual range of petrol stations (aviation fuel, petroleum coke, xylenes and wholesale fuel) and which are covered by the marks applied for;
4. Orders EUIPO to bear its own costs and to pay four fifths of the costs incurred by Polski Koncern Naftowy Orlen SA, which shall bear one fifth of its own costs.

⁽¹⁾ OJ C 279, 24.8.2015.