

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Awg Allgemeine Warenvertriebs GmbH

Trade mark at issue: Community word mark 'Southern Territory 23°48'25"S' –Community trade mark No 10 099 554

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 10 November 2015 in Case R 735/2015-4

Form of order sought

The applicant claims that the Court should:

- amend the contested decision by declaring that the application for the invalidity of Community word mark 10 099 554 Southern Territory 23°48'25"S is rejected.

Plea in law

- Infringement of Article 53(1)(a) read in conjunction with Article 8(1)(b) of Regulation No 207/2009.

Action brought on 5 January 2016 — Toshiba Samsung Storage Technology and Toshiba Samsung Storage Technology Korea v Commission

(Case T-8/16)

(2016/C 098/67)

Language of the case: English

Parties

Applicants: Toshiba Samsung Storage Technology Corp. (Tokyo, Japan), and Toshiba Samsung Storage Technology Korea Corp. (Gyeonggi-do, Republic of Korea) (represented by: M. Bay, J. Ruiz Calzado, A. Aresu and A. Scordamaglia-Tousis, lawyers)

Defendants: European Commission

Form of order sought

The applicants claim that the Court should:

- annul, in whole or in part, the decision of the Commission of 21 October 2015 in Case AT.39639 — Optical Disk Drives, relating to a proceeding under Article 101 TFEU and Article 53 EEA Agreement;
- further, or in the alternative, substantially reduce the amount of the fine imposed on the applicants;
- order the Commission to pay the costs; and
- make any other order as may be appropriate in the circumstances of the case.

Pleas in law and main arguments

In support of the action, the applicants rely on nine pleas in law.

1. First plea in law, alleging a breach of essential procedural requirements and of the applicants' rights of defence, resulting from the inconsistent legal characterisation of the conduct, the contradictory, or the very least, insufficient reasoning regarding the legal characterisation of the alleged infringement, the failure to give access to exculpatory evidence, and the reliance on several legal and factual elements in the contested decision that were not addressed in the statement of objections.

2. Second plea in law, alleging errors of fact and law in the application of Article 101 TFEU in relation to the finding of an effect on trade between Members States.
3. Third plea in law, alleging errors of fact and law in the determination of the geographic scope of the infringement of Article 101 TFEU.
4. Fourth plea in law, alleging errors of fact and law in the application of Article 101 TFEU in relation to the finding of a single infringement.
5. Fifth plea in law, alleging errors of fact and law in respect of the applicants' alleged awareness of the whole single infringement and, more specifically, of the participation of all other addresses.
6. Sixth plea in law, alleging errors of fact and law regarding the starting date of the applicants' alleged participation to whole single infringement.
7. Seventh plea in law, alleging errors of fact and law in relation to the scope of the infringement imputed to the applicants by finding that the applicants were involved in anticompetitive 'agreements'.
8. Eighth plea in law, alleging a breach of the right to good administration and of related general principles of EU law resulting from the manifestly excessive duration of the investigation.
9. Ninth plea in law, in the alternative, alleging errors in the calculation of the fine, resulting from:
 - the Commission's failure to take account of the fact that (a) the applicants are a single-product undertaking, (b) additional circumstances limiting the gravity of the applicants' individual conduct and mitigating circumstances; and
 - the Commission's failure to give proper weight to the specific circumstances of the infringement in setting the level of the general gravity multiplier and the entry fee.

Action brought on 11 January 2016 — Skechers USA France v OHIM — IM Production (Shoes)
(Case T-9/16)

(2016/C 098/68)

Language in which the application was lodged: French

Parties

Applicant: Skechers USA France (Paris, France) (represented by: J. Horn, lawyer)

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

Other party to the proceedings before the Board of Appeal: IM Production SAS (Paris)

Details of the proceedings before OHIM

Proprietor of the design at issue: Other party to the proceedings before the Board of Appeal

Design at issue: Community design 1 221 584-0023

Contested decision: Decision of the Third Board of Appeal of OHIM of 23 September 2015 in Case R 2429/2013-3