

Pleas in law and main arguments

By the contested decision, the Commission found that the alleged exclusive right held by Fred Olsen to operate out of the port of Puerto de las Nieves (the Canary Islands, Spain), Fred Olsen's total or partial exemption from payment of the corresponding port dues, and the conditions of use of that port which, according to the applicant, also provide an unfair advantage to that shipping company in that they exclude conventional vessels, do not constitute State aid.

In support of its action, the applicant raises a single plea claiming that it provided a sufficient statement of reasons for the Commission to have reasonable doubt concerning the existence of State aid in favour of Fred Olsen, thus giving grounds for initiation of a formal investigation procedure.

In support of that plea, the applicant contends that:

- the excessively long duration of the preliminary examination carried out by the Commission between the date Naviera Armas lodged its complaint, 26 April 2013, and the date of the contested decision is, in itself, evidence of the complexity of the case and demonstrates that initiation of a formal investigation procedure was necessary.
- the contested decision is vitiated by certain manifest errors in the assessment of the facts, such as stating that no undertaking requested permission to operate out of Puerto de las Nieves using high speed ferries before 2013, that Fred Olsen was the only undertaking interested in using the port in the 1990s, and that only high speed ferries can operate out of that port.
- Fred Olsen has had exclusive use of Puerto de las Nieves since 1991 thus giving it a competitive advantage at the discretion of the Spanish authorities.
- Fred Olsen has benefitted from total exemption from certain port dues for over 20 years.

Action brought on 18 March 2016 — Savant Systems v EUIPO — Savant Group (SAVANT)

(Case T-110/16)

(2016/C 175/24)

Language in which the application was lodged: English

Parties

Applicant: Savant Systems LLC (Osterville, Massachusetts, United States) (represented by: O. Nilgen, A. Kockläuner, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Savant Group Ltd (Burton in Kendal, United Kingdom)

Details of the proceedings before EUIPO

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

Trade mark at issue: EU word mark 'SAVANT' — EU trade mark No 32 318

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 18 January 2016 in Case R 33/2015-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision insofar as protection of the contested EU trademark No 32 318 ‘SAVANT’ was maintained with regard to ‘computer software’ in class 9 and for all services in classes 41 and 42;
- order EUIPO to pay the costs.

Pleas in law

- Infringement of Article 51(1)(a) in connection with Article 15 of Regulation No 207/2009 insofar as the Board of Appeal wrongly held that the proprietor had proven genuine use of the contested CTM for the goods and services as registered, in particular ‘computer software’ and the related services in classes 41 and 42;
- Infringement, by the Board of Appeal, of the obligation to state reasons why it did not take the ‘in use investigation’ report into consideration.

Action brought on 18 March 2016 — Prada v EUIPO — The Rich Prada International (THE RICH PRADA)

(Case T-111/16)

(2016/C 175/25)

Language in which the application was lodged: English

Parties

Applicant: Prada SA (Luxembourg, Luxembourg) (represented by: F. Jacobacci, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: The Rich Prada International PT (Surabaya, Indonesia)

Details of the proceedings before EUIPO

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: EU word mark ‘THE RICH PRADA’ — Application for registration No 10 228 948

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 13 January 2016 in Joined Cases R 3076/2014-2 and R 3186/2014-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision in part, thereby granting Opposition Proceedings No B 2 012 477 in its entirety;
- in the alternative, uphold the decision of the Second Board of Appeal in its entirety;