

2. *The Port autonome du Centre et de l'Ouest SCRL, the Port autonome de Namur, the Port autonome de Charleroi, the Port autonome de Liège and the Région wallonne shall bear their own costs and those incurred by the European Commission.*

⁽¹⁾ OJ C 175, 17.5.2016.

Action brought on 29 July 2016 — The Regents of the University of California v CPVO — Nador Cott Protection and CVVP (Tang Gold)

(Case T-405/16)

(2017/C 014/44)

Language in which the application was lodged: Spanish

Parties

Applicant: The Regents of the University of California (Riverside, California, United States of America) (represented by: J. Muñoz-Delgado Mérida, S. Poza Martínez, M. Esteve Sanz y J. Lissen Arbeloa, abogados)

Defendant: Community Plant Variety Office (CPVO)

Other party to the proceedings before the Board of Appeal: Nador Cott Protection SARL (Saint-Raphaël, France) and Club de Variedades Vegetales Protegidas (Valencia, Spain)

Details of the proceedings before CPVO

Proprietor of the plant variety right at issue: Applicant

Community Plant variety right at issue: Community Plant Variety Right No EU 38924, variety denomination: Tang Gold, species: *Citrus reticulata* Bianco

Contested decision: Decision of the Board of Appeal of CPVO of 29 April 2016 in Case A006/2014

Form of order sought

The applicant claims that the Court should:

- Confer on the variety Nadorcott, with regard to characteristic No 68 of Protocol CPVO-TP 201/2, the level of expression 'very high' with a mark of 9 or, in the alternative, the level of expression 'high' with a mark of 7, entering that classification on the Report on the Differences with Similar Varieties, which form part of the official description of the variety Tang Gold;
- Recognise the existence of manifest differences between the varieties Tang Gold and Nardocott as regards characteristics Nos 5, 6, 14, 15, 16, 37, 50, 60 and 65 of Protocol CPVO-TP 201/2, by making a declaration to that effect and granting the amendment of the Report on the Differences with Similar Varieties, which forms part of the official description of the variety Tang Gold, in such a way as to include those differences in the report.

Pleas in law

- Infringement of Articles 57, 62, 67, 75 and 81 of Regulation No 2100/94.
- Infringement of Article 49 of Regulation No 874/09.
- Misinterpretation of the Report of the IVIA entitled 'Extent of the reduction of the seed content through induced mutagenesis'.

- Characteristic No 68 does not depend on environmental conditions.
- The data provided by UCR on the number of seeds contained in the Nadorcott variety is comparable.

Appeal brought on 30 September 2016 by the European Commission against the judgment of 21 July 2016 by the Civil Service Tribunal in Case F-91/15, AV v Commission

(Case T-701/16 P)

(2017/C 014/45)

Language of the case: French

Parties

Appellant: European Commission (represented by C. Berardis-Kayser, T. S. Bohr and C. Ehrbar, acting as Agents)

Other party to the proceedings: AV (Cadrezzate, Italy)

Form of order sought by the appellant

The appellant claims that the Court should:

- Set aside the judgment under appeal;
- Refer the case back to the court of first instance;
- Reserve the costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on two pleas in law.

1. First plea in law, alleging that the Civil Service Tribunal (CST) committed two errors of law. In the first place, the CST annulled the contested decision, namely the decision of the Commission, of 16 September 2014, to apply to the other party in the proceedings the medical reservation clause provided for in Article 32 of the Conditions of Employment of Other Servants of the European Union and to refuse to award him an invalidity allowance, notwithstanding the fact that a decision may be annulled only exceptionally on the ground of infringement of the reasonable time principle. In the second place, the CST wrongly found that the excessive delay in taking the decision could affect the very content of the decision. The appellant alleges, moreover, an infringement of the duty to provide reasons with regard to that second aspect.
2. Second plea in law, alleging an error of law resulting from the fact that, as the CST annulled the contested decision by holding that the delay in the conduct of administrative procedures, which was found to be excessive, affected the very content of the decision, the judgment under appeal disregarded the principle of *res judicata*.

Action brought on 25/10/2016 — Vincenti v EUIPO

(Case T-747/16)

(2017/C 014/46)

Language of the case: English

Parties

Applicant: Guillaume Vincenti (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)