

Pleas in law and main arguments

By the first plea in his appeal, the applicant submits that the Tribunal committed a breach of procedure adversely affecting his right to a fair hearing in that he was not able to submit his observations regarding the documents on which the Tribunal based its arguments and that certain matters raised by the applicant and documents lodged during the procedure were not taken into consideration. By his second plea, the applicant claims that the Tribunal infringed Community law by distorting the pleas relied on in the action and by incorrectly interpreting the provisions of the Staff Regulations of officials of the European Communities. He also submits that the Tribunal made manifest errors of assessment of the facts.

Action brought on 15 September 2006 — Budějovický Budvar v OHIM — Anheuser-Busch (BUD)

(Case T-255/06)

(2006/C 281/69)

*Language in which the application was lodged: French***Parties**

Applicant: Budějovický Budvar, národní podnik (České Budějovice, Czech Republic) (represented by: F. Fajgenbaum, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Anheuser-Busch, Incorporated

Form of order sought

- annul the contested decision R 241/2005-2 of 28 June 2006 of the Second Board of Appeal of OHIM;
- reject application No 1 257 849 for registration of the Community trade mark 'BUD' for all of the goods which it designates in Classes 16, 21, 25 and 32;
- send the decision of the Court of First Instance to OHIM;
- order Anheuser-Busch to pay all the costs and expenses.

Pleas in law and main arguments

Applicant for the Community trade mark: Anheuser-Busch, Incorporated

Community trade mark concerned: Figurative mark 'BUD' for goods in Classes 16, 21, 25 and 32 — Application No 1 257 849

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Protected designation of origin 'BUD' to designate beer

Decision of the Opposition Division: Rejection of the opposition

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 62(1) of Regulation No 40/94⁽¹⁾ and Article 20 of implementing Regulation No 2868/95⁽²⁾ in that the Board of Appeal is not competent to rule on the validity of the designation of origin invoked by the applicant in the context of its opposition. It further submits that the sign 'BUD' constitutes a designation of origin, protected in both France and Austria. The applicant also invokes misapplication of Article 8(4) of Regulation No 40/94 in that, in its view, the designation of origin 'BUD' is indeed a sign used in the course of trade.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

⁽²⁾ Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

Action brought on 15 September 2006 — Budějovický Budvar v OHIM — Anheuser-Busch (word mark 'BUD')

(Case T-257/06)

(2006/C 281/70)

*Language in which the application was lodged: French***Parties**

Applicant: Budějovický Budvar, národní podnik (České Budějovice, Czech Republic) (represented by: F. Fajgenbaum, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM: Anheuser-Busch, Incorporated

Form of order sought

- annul the contested decision R 802/2004-2 of 28 June 2006 of the Second Board of Appeal of OHIM;
- reject application No 1 737 121 for registration of the word mark 'BUD' to designate services in Classes 35, 38, 41 and 42;
- send the decision of the Court of First Instance to OHIM;
- order Anheuser-Busch to pay all the costs and expenses.

Pleas in law and main arguments

Applicant for the Community trade mark: Anheuser-Busch, Incorporated

Community trade mark concerned: Word mark 'BUD' for services in Classes 35, 38, 41 and 42 — Application No 1 737 121

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Protected designation of origin 'BUD' to designate beer

Decision of the Opposition Division: Rejection of the opposition

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Article 62(1) of Regulation No 40/94⁽¹⁾ and Article 20 of implementing Regulation No 2868/95⁽²⁾ in that the Board of Appeal is not competent to rule on the validity of the designation of origin invoked by the applicant in the context of its opposition. It further submits that the sign 'BUD' constitutes a designation of origin, protected in both France and Austria. The applicant also invokes misapplication of Article 8(4) of Regulation No 40/94 in that, in its view, the designation of origin 'BUD' is indeed a sign used in the course of trade.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

⁽²⁾ Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

Action brought on 15 September 2006 — Arktoouros v Commission

(Case T-260/06)

(2006/C 281/71)

Language of the case: Greek

Parties

Applicant: Arktoouros (Association for the Protection and Management of the Natural Environment and Wildlife) (Thessaloniki, Greece) (represented by: N. Korogiannakis and N. Keramidas, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- annul Commission Decision C (2006)3181 final of 7 July 2006, notified to the applicant on 10 July 2006, concerning the ending of the programme 'Conservation actions in the Northern Pindos National Park' — Ellas — LIFE03 NAT/GR/000089 and relating to the reimbursement of assistance amounting to EUR 264 684,00 together with default interest amounting to EUR 4 659,53;
- exclude a sum amounting to EUR 55 658,28 from the sum to be repaid, in respect of eligible expenditure incurred in connection with the programme;
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant submits, first, that the infringement by the Commission of a provision contained in the LIFE Standard Administrative Provisions constitutes an infringement of a rule of law under Article 230 EC, rendering Commission Decision C (2006)3181 final invalid.

Second, the applicant submits that the Commission made a material error of assessment regarding the applicant's ability to complete the programme despite the departure of two of its members, an error which justifies annulment of the Commission decision concerning termination of the agreement and recovery of the assistance granted.

In the alternative, the applicant seeks the exclusion of the sum of EUR 55 658,28 from the sum to be repaid, in respect of eligible expenditure incurred in connection with the programme.