

Alternatively, the applicant submits that the Commission failed to comply with the fining guidelines, its own consistent practice and the principles of non-discrimination and equality of treatment in calculating the fine for which the applicant is held liable by reference to the individual circumstances of a different undertaking, Tomkins. The applicant further alleges that the Commission committed an error in calculating the fine.

- (¹) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).
 (²) Commission Notice of 14 January 1998 entitled 'Guidelines on the method of setting fines imposed pursuant to Article 15(2) of Regulation No 17 and Article 65(5) of the ECSC Treaty' (OJ 1998 C 9, p. 3).

Action brought on 20 December 2006 — Inter-IKEA v OHIM (representation of a pallet)

(Case T-387/06)

(2007/C 20/52)

Language of the case: English

Parties

Applicant: Inter-IKEA Systems BV (Delft, Netherlands) (represented by: J. Gulliksson, lawyer)

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

Form of order sought

- Annul the decision of the First Board of Appeal of 26 September 2006 in Case R 353/2006-1;
- order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark representing a pallet consisting of an elongated rectangular platform or base and an equally elongated flange, ornamented with square holes, which are both at a 90 degree angle to each other, for goods and services in classes 6, 7, 16, 20, 35, 39 et 42 — application No 4 073 763

Decision of the examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Violation of Article 7(1)(b) of Council Regulation No 40/94 as the trade mark is sufficiently distinctive to be registered.

Action brought on 20 December 2006 — Inter-IKEA v OHIM (representation of a pallet)

(Case T-388/06)

(2007/C 20/53)

Language of the case: English

Parties

Applicant: Inter-IKEA Systems BV (Delft, Netherlands) (represented by: J. Gulliksson, lawyer)

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

Form of order sought

- Annul the decision of the First Board of Appeal of 26 September 2006 in Case R 354/2006-1;
- order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark representing a pallet consisting of an elongated rectangular platform or base and an equally elongated flange, ornamented with round holes, which are both at a 90 degree angle to each other, for goods and services in classes 6, 7, 16, 20, 35, 39 et 42 — application No 4 073 731

Decision of the examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Violation of Article 7(1)(b) of Council Regulation No 40/94 as the trade mark is sufficiently distinctive to be registered.

Action brought on 20 December 2006 — Inter-IKEA v OHIM (representation of a pallet)

(Case T-389/06)

(2007/C 20/54)

Language of the case: English

Parties

Applicant: Inter-IKEA Systems BV (Delft, Netherlands) (represented by: J. Gulliksson, lawyer)

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

Form of order sought

- Annul the decision of the First Board of Appeal of 26 September 2006 in Case R 355/2006-1;
- order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark representing a pallet consisting of an elongated rectangular platform or base and an equally elongated flange, ornamented with triangle holes, which are both at a 90 degree angle to each other, for goods and services in classes 6, 7, 16, 20, 35, 39 et 42 — application No 4 073 748

Decision of the examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Violation of Article 7(1)(b) of Council Regulation No 40/94 as the trade mark is sufficiently distinctive to be registered.

Action brought on 20 December 2006 — Inter-IKEA v OHIM (representation of a pallet)

(Case T-390/06)

(2007/C 20/55)

Language of the case: English

Parties

Applicant: Inter-IKEA Systems BV (Delft, Netherlands) (represented by: J. Gulliksson, lawyer)

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

Form of order sought

- Annul the decision of the First Board of Appeal of 26 September 2006 in Case R 356/2006-1;
- order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark representing a pallet consisting of an elongated rectangular platform or base and an equally elongated flange, both ornamented with round holes, which are both at a 90 degree angle to each other, for goods and services in classes 6, 7, 16, 20, 35, 39 et 42 — application No 4 073 722

Decision of the examiner: Refusal of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Violation of Article 7(1)(b) of Council Regulation No 40/94 as the trade mark is sufficiently distinctive to be registered.

Action brought on 18 December 2006 — Makhteshim Agan Holding and others v Commission

(Case T-393/06)

(2007/C 20/56)

Language of the case: English

Parties

Applicants: Makhteshim Agan Holding BV (Amsterdam, The Netherlands), Makhteshim Agan Italia Srl (Bergamo, Italy) and Magan Italia Srl (Bergamo, Italy) (represented by: C. Mereu and K. Van Maldegem, lawyers)

Defendant: Commission of the European Communities

Form of order sought

- Annulment of Commission Decision D/531125, of 12 October 2006;
- order the defendant to comply with its obligations under Community law and review and use all available data, including human data, to ensure the inclusion of azinphos-methyl in Annex I to the PPPD;
- order the defendant to pay all costs and expenses in these proceedings.

Pleas in law and main arguments

By means of their application, the applicants seek annulment of Commission Decision D/531125 set forth in a letter of 12 October 2006, addressed to the agency within the rapporteur Member State responsible for the review of the active substance azinphos-methyl under the framework of Directive 91/414/EEC concerning the placing of plants protection products on the market (hereinafter, the 'PPPD') (1), in which the defendant states it will not take a decision on the approval and inclusion of the active substance concerned in Annex I of the said directive and further indicates that in the absence of approval at Community level by the date laid down in Article 8, paragraph 2, of the PPPD, there would no longer be any legal basis for keeping the substance on the market.

The applicants claim that the contested decision amounts to a *de facto* and *de jure* ban of azinphos-methyl, insofar as it unambiguously states that no further decision on the inclusion of the substance in Annex I of the PPPD will be taken and in that it aims to achieve an azinphos-methyl marketing ban through the defendant's inactivity until the expiration of the set time-limit for approval.