

Judgment of the Court (Grand Chamber) of 13 March 2007
— Office for Harmonisation in the Internal Market (Trade
Marks and Designs) v Kaul GmbH, Bayer AG

(Case C-29/05 P) ⁽¹⁾

(Appeal — Community trade mark — Opposition proceedings
— Submission of new facts and evidence in support of an
appeal brought before the Board of Appeal of OHIM)

(2007/C 95/08)

Language of the case: German

Parties

Appellant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. von Mühlendahl and G. Schneider, Agents)

Other parties to the proceedings: Kaul GmbH (represented by: G. Würtenberger and R. Kunze, Rechtsanwälte), Bayer AG

Re:

Appeal brought against the judgment of the Court of First Instance (Fourth Chamber) of 10 November 2004 in Case T-164/02 *Kaul v OHIM and Bayer*, by which the Court of First Instance annulled Decision R 782/2000-3 of the Third Board of Appeal of OHIM of 4 March 2002 relating to opposition proceedings between Kaul GmbH and Bayer AG — Examination of the opposition — Examination of the facts by the Board of Appeal — Scope — Articles 43(2) and 74(2) of Council Regulation No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1)

Operative part of the judgment

The Court:

1. Sets aside the judgment of the Court of First Instance of the European Communities of 10 November 2004 in Case T-164/02 *Kaul v OHIM — Bayer* (ARCOL);
2. Annuls the decision of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 4 March 2002 (Case R 782/2000-3);
3. Orders OHIM to pay the costs of the proceedings both at first instance and on appeal.

⁽¹⁾ OJ C 82, 2.4.2005.

Judgment of the Court (Second Chamber) of 1 March 2007
(reference for a preliminary ruling from the College van
Beroep voor het bedrijfsleven (Netherlands)) — Maatschap
J. en G.P. en A.C. Schouten v Minister van Landbouw,
Natuur en Voedselkwaliteit

(Case C-34/05) ⁽¹⁾

(Community aid schemes — Regulation (EEC) No 3887/92 —
Beef and veal sector — Regulation (EC) No 1254/1999 —
Available forage area — Definition — Special premium —
Conditions for granting — Parcel of land temporarily under
water during the period in question)

(2007/C 95/09)

Language of the case: Dutch

Referring court

College van Beroep voor het bedrijfsleven (Netherlands)

Parties to the main proceedings

Applicant: Maatschap J. en G.P. en A.C. Schouten

Defendant: Minister van Landbouw, Natuur en Voedselkwaliteit,

Re:

Reference for a preliminary ruling — College van Beroep voor het Bedrijfsleven — Interpretation of Article 12(2)(b) of Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal (OJ 1999 L 160, p. 21) and of Article 2(1)(c) of Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes (OJ 1992 L 391, p. 36) — Available forage area — Parcel of land temporarily under water during the period in question

Operative part of the judgment

Article 12(2)(b) of Council Regulation (EC) No 1254/1999 of 17 May 1999 on the common organisation of the market in beef and veal and Article 2(1)(c) of Commission Regulation (EEC) No 3887/92 of 23 December 1992 laying down detailed rules for applying the integrated administration and control system for certain Community aid schemes must be interpreted as meaning that a parcel of land declared as a forage area may be regarded as 'available' where, first, it is intended to be used exclusively for the feeding of the animals held on it throughout the calendar year and, secondly, it was in fact possible to use it to feed them for a minimum period of seven months during that year, from the date fixed by the national legislation, which must be between 1 January and 31 March, even though that parcel of land was not occupied continuously by those animals, in particular because it was temporarily under water.

⁽¹⁾ OJ C 93, 16.4.2005.