

Action brought on 16 May 2007 — Scientific and Technological Committee and Others v Potocnik and Others, Members of the Commission

(Case T-125/07)

(2007/C 140/55)

Language of the case: Polish

Parties

Applicants: Scientific and Technological Committee of AGH University of Science and Technology and Others (Cracow, Poland) (represented by A. Żuraniewski, lawyer)

Defendants: J. Potocnik, S. Dimas and A. Piebalgs, Members of the Commission of the European Communities

Form of order sought

- declare that J. Potocnik, S. Dimas and A. Piebalgs, Members of the Commission of the European Communities, by not taking immediate action in defence of the life of the population of the EU from the time of receipt of the three documents reporting the risks connected with the technique of storing CO₂ in geological strata, committed the offence of failure to act, by which they caused an existing and continuing state of danger to the life of the population of the EU and danger of an ecological catastrophe;
- indicate the need for carrying out the proposed studies;
- indicate the need for financing in full the studies which are not of a commercial nature but protect the safety of the life of the population of the EU;
- indicate the need for suspension in the EU of further procedures for injecting CO₂ into geological strata until the completion of the proposed studies.

Pleas in law and main arguments

The applicants seek a declaration of failure to act by members of the European Commission who were informed by the applicants of the dangers to human health and the natural environment deriving from the containerless depositing of carbon dioxide in geological strata but did not take the appropriate measures with the aim of preventing the negative effects of the application of such techniques. The applicants claim that after being called on to take action and to carry out the studies proposed by the applicants on the effects of the storage of carbon dioxide in surface layers of land the defendant members of the Commission did not take any position on the issue of the

problems raised in the complaints addressed to them. The applicants submit that such inactivity infringes the legal order of the European Union and conflicts with the obligations of a member of the Commission.

Action brought on 20 April 2007 — Allos Walter Lang v OHIM — Kokoriko (Coco Rico)

(Case T-126/07)

(2007/C 140/56)

Language of the case: German

Parties

Applicant: Allos Walter Lang (Mariendrebber, Germany) (represented by: H. Heldt, Rechtsanwalt)

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

Other party in the proceedings before the OHIM: KOKORIKO Ltda.

Form of order sought

- Suspension of proceedings until final determination on the actions for annulment pending before the OHIM in cases 2069 C and 2070 C;
- Annulment of the decision of the Opposition Division on 31 May 2006 reference number B 696684 and the decision of the Second Board of Appeal of 16 February 2007, reference number R 1047/2006-2 and reference of the matter back to the Opposition Division for reconsideration.
- OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark in question: The word mark 'Coco Rico' for goods in Class 30 (Application No 2 949 899).

Proprietor of the trade marks relied upon in opposition: KOKORIKO Ltda.

Trade marks relied upon in opposition: The work mark 'KOKORIKO' (Community Trade Mark No 101 386) for goods and services in Classes 29, 30 and 42, and the figurative mark 'KOKORIKO' (Community Trade Mark No 101 626) for goods and services in Classes 29, 30 and 42.

Decision of the Opposition Division: Opposition upheld and application for registration dismissed.

Decision of the Board of Appeal: Appeal dismissed.

Grounds of appeal: In making its decision, the Opposition Division failed to take account of applicant's claim for annulment of the marks relied on in opposition. In the submission of the applicant, there is no further obstacle under Article 8(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾ to the registration being sought by the applicant in the event of the opposing marks being annulled.

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

Appeal brought on 20 April 2007 by Bligny against the order of the Civil Service Tribunal made on 15 February 2007 in Case F-142/06, Bligny v Commission

(Case T-127/07 P)

(2007/C 140/57)

Language of the case: French

Parties

Appellant: Francesco Bligny (Tassin-la-Demi-Lune, France) (represented by P. Lebel-Nourissat, lawyer)

Other party to the proceedings: Commission of the European Communities

Form of order sought by the appellant

- declare that the Civil Service Tribunal (CST) erred in its assessment of the application form as regards the obligation on the candidate to attach documentary evidence of his citizenship;
- declare that the CST did not deal with the applicant's pleas as to failure to take account of the principles of the protection of legitimate expectations and of proper administration incumbent upon the selection board of competition EPSO AD/26/05;
- accordingly, annul the order of the CST of 15 February 2007 in Case F-142/06;
- making a new decision, annul the decision of the selection board of competition EPSO AD/26/05 of 7 December 2006, and that of 23 December 2006 refusing the applicant admission to the competition and thus to correction of his written test, and hold that the application form published on 15 May 2006 for candidates of the competition on the EPSO website was unlawful;

- in the alternative, refer the case back to the CST for the purposes of a decision on the case in question and order the Commission to pay the costs.

Pleas in law and main arguments

In its appeal, the applicant requests annulment of the order of the Civil Service Tribunal dismissing as manifestly unfounded his action by which he requested the annulment of the decision of the selection board of the competition refusing to correct his written test on the ground that his application did not include documentary evidence of his citizenship.

In support of his appeal, the applicant submits that the CST fundamentally misread the facts which had been submitted to it, thus misinterpreting the application form to be filled in by the candidate, leading to an error of assessment of the form. Further, he relies on a plea relating to inadequate statement of reasons in respect of the contested order, as the CST did not deal with all the pleas and forms of order sought put forward by the applicant at first instance.

Action brought on 23 April 2007 — Suez v OHIM (Delivering the essentials of life)

(Case T-128/07)

(2007/C 140/58)

Language in which the application was lodged: French

Parties

Applicant: Suez SA (Paris, France) (represented by: P. Combeau, lawyer)

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

Form of order sought

- Annulment of the contested decision;
- OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'Delivering the essentials of life' for goods and services in Classes 1, 9, 11, 16, 35, 36, 37, 38, 39, 40, 41 and 42 (Application No 4 102 497)

Decision of the examiner: Refusal to register