

- rejection of Community trade mark No 2.666.386;
- order OHIM to pay the costs including those of the intervenor.

Pleas in law and main arguments

Applicant for a Community trade mark: Montebello (limited company)

Community trade mark concerned: figurative mark 'MONTEBELLO Rhum Agricole' (application No 2.266.386) for goods in Class 33 (alcoholic beverages, except beers).

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

Mark or sign cited in opposition: Spanish word mark 'MONTEBELLO' (No 1.148.196) for goods in Class 33.

Decision of the Opposition Division: opposition upheld.

Decision of the Board of Appeal: decision of the Opposition Division upheld and annulled.

Pleas in law: Misapplication of Article 8(1)(b) of Regulation (EC) No 40/94 on the Community trade mark.

Action brought on 29 November 2007 — France v Commission

(Case T-432/07)

(2008/C 22/92)

Language of the case: French

Parties

Applicant: French Republic (represented by: G. de Bergues and A.-L. During, Agents)

Defendant: Commission of the European Communities

Form of order sought

- annul Commission Decision 2007/647/EC of 3 October 2007 excluding from Community financing certain expenditure incurred by the Member States under the Guarantee Section of the European Agricultural Guidance and Guarantee Fund (EAGGF) ⁽¹⁾, in so far as it excludes certain expenditure incurred by the applicant for producers' organisations in the fruit and vegetable sector in respect of the financial years 2003 and 2004;
- order the Commission to pay the costs.

Pleas in law and main arguments

The applicant seeks the annulment of the contested decision on the ground that the Commission wrongly interpreted and

applied Article 11 of Council Regulation No 2200/96 ⁽²⁾ in finding that the French Government had failed to observe the conditions laid down in that provision for the recognition of producers' organisations in the fruit and vegetable sector.

⁽¹⁾ Notified under document number C(2007) 4477, OJ 2007 L 261, p. 28.

⁽²⁾ Council Regulation (EC) No 2200/96 of 28 October 1996 on the common organisation of the market in fruit and vegetables (OJ 1996 L 297, p. 1)

Action brought on 22 November 2007 — Ryanair v Commission

(Case T-433/07)

(2008/C 22/93)

Language of the case: English

Parties

Applicant: Ryanair Ltd (Dublin, Ireland) (represented by: E. Vahida, lawyer)

Defendant: Commission of the European Communities

Form of order sought

- To declare in accordance with Article 232 EC that the Commission has failed to act pursuant to its obligations under the EC Treaty by not having defined a position with respect to the applicant's complaint lodged with the Commission on 22 December 2006 followed by a letter of formal notice of 2 August 2007;
- to order the Commission to pay the entire costs, including the costs incurred by the applicant in the proceedings even if, following the bringing of the action, the Commission takes action which in the opinion of the Court removes the need to give a decision or if the Court dismisses the application as inadmissible;
- to take such further action as the Court may deem appropriate.

Pleas in law and main arguments

The applicant claims that the Commission has failed to act by not having defined its position, after having been invited to do so, under Article 232 EC, on the basis of the applicant's complaint filed on 22 December 2006, regarding unlawful aid granted by Greece to Olympic Airlines and Olympic Airways Services ('OA/OAS') following an arbitration ruling of the Greek Supreme Court, ordering the Greek State to pay OA/OAS EUR 563 million for allegedly unpaid services and the cost of relocation to Athens' new airport.