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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 22 May 2014 by Pêra-Grave — Sociedade Agrícola, Unipessoal, L[da] against the judgment of the General Court (First Chamber) delivered on 27 February 2014 in Case T-602/11: Pêra-Grave — Sociedade Agrícola, Unipessoal, L[da] v Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case C-249/14 P)

(2014/C 361/02)

Language of the case: English

Parties

Appellant: Pêra-Grave — Sociedade Agrícola, Unipessoal, L[da] (represented by: J. de Oliveira Vaz Miranda de Sousa, advogado)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs), Fundação Eugénio de Almeida

Form of order sought

The appellant claims that the Court should:

— set aside the Judgment of the General Court of 27 February 2014 in Case T- 602/11;

— alternatively, refer the case back to the General Court for final judgment;

— order the OHIM as defendant in the proceedings before the General Court to pay the costs of the proceedings of the first instance and appeal.

Pleas in law and main arguments

The Appellant submits that the Judgment under Appeal is flawed to the extent that the General Court misinterpreted and misapplied Article 8(1)(b) CTMR ([1]). This plea in law comprises three parts and is based in three sets of arguments as follows:

1. The General Court failed to properly substantiate the existence of a genuine likelihood of confusion between the marks at issue. Finding a genuine likelihood of confusion between two trademarks properly and objectively cannot merely consist in affirming that, in the light of the identity of their respective goods, and in view of the very low visual similarity and the low degree of phonetic similarity that exists between them (and in spite of their conceptual dissimilarity), it cannot be ruled out that the relevant consumer may perceive their respective goods as originating from the same undertaking or from economically linked undertakings. 'Likelihood of confusion' does not mean a mere possibility of confusion but rather a probability that confusion will occur. A likelihood of confusion cannot be presumed just because there is some degree of similarity between two trademarks, even when their respective goods are identical.

2. The Judgment under Appeal has also misapplied Article 8(1)(b) CTMR in so far as the General Court failed to take into account the impact and weight of the conceptual dissimilarity of the signs within the overall assessment of the likelihood of confusion between trademarks presenting a very low degree of visual similarity and a low degree of aural similarity. According to established case law the conceptual content of the mark applied for should suffice to counteract the very low visual similarity and the low aural similarity that, according to the General Court, exists between the mark applied for and the earlier mark.

3. Finally the General Court has misapplied Article 8(1)(b) CTMR by assessing the existence of a likelihood of confusion between the signs at stake without taking into account all the factors relevant to the circumstances of the case for establishing the likelihood of confusion. More concretely, the General Court ignored a crucial circumstance that was part of the factual background of the proceedings: the origins, the history, the geographical meaning of the word included in the trademarks at stake in the proceedings and its symbolic connection with the goods designated by said marks. Consequently and to that extent, the General Court also distorted the factual background of the proceedings.

([1]) Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark OJ L 78, p. 1.

Action brought on 18 July 2014 — European Commission v Republic of Austria

(Case C-346/14)

(2014/C 361/03)

Language of the case: German

Parties

Applicant: European Commission (represented by: E. Manhaeve and G. Wilms, acting as Agents)

Defendant: Republic of Austria

Form of order sought

The applicant claims that the Court should:

— declare that the defendant failed to fulfil its obligations under Article 4(3) TEU in conjunction with Article 288 TFEU, in so far as by granting permission for the construction of a hydropower plant on the Schwarze Sulm (Black Sulm) it incorrectly applied the provisions of Article 4(1) in conjunction with Article 4(7) of the Water Framework Directive ([1]) (WFD);

— order Republic of Austria to pay the costs.

Pleas in law and main arguments

Austria sees to avoid the prohibition of deterioration which is laid down in Article 4(1) as a fundamental principle and thereby failed to satisfy the conditions for receiving an exception under Article 4(7) WFD.

The application of the directive ratione temporis is based on the Court's case-law, according to which during the period allowed for transposition of a directive, Member States must refrain from taking any measures liable seriously to compromise the result prescribed by the directive (Article 4(3) TEU in conjunction with Article 288 TFEU).

The defendant bases its new decision solely on an amended assessment of the water status of the Schwarze Sulm. That amended classification ('good' water status instead of 'very good' water status) is not compatible with the original management plan. Findings and assessments in the management plan may not simply be amended as the result of an ad-hoc administrative decision based on new criteria. Otherwise, fundamental substantive provisions of the Water Framework Directive, such as in this case the prohibition of deterioration, and important procedural provisions, such as those on public participation, could be easily avoided.

([1]) Directive 2000/60/EC of the European Parliament and of the Council of 23 October 2000 establishing a framework for Community action in the field of water policy (OJ 2000 L 327, p. 1).

Request for a preliminary ruling from the Judecătoria Câmpulung (Romania) lodged on 21 July 2014 — Maria Bucura v SC Bancpost SA

(Case C-348/14)

(2014/C 361/04)

Language of the case: Romanian

Referring court

Judecătoria Câmpulung

Parties to the main proceedings

Applicant: Maria Bucura

Defendant: SC Bancpost SA

Intervening party: Vasile Ciobanu

Third party: SC Raiffeisen Bank SA

Questions referred

1) For the purposes of Directive 93/13/EEC ([1]), where authorisation for enforcement has been given in the absence of the consumer, is a national court seised of an objection to enforcement of a credit agreement relating to the issue of a credit card such as an American Express Gold card required, as soon as it has at its disposal the fact and points of laws necessary to that end, to evaluate, including of its own motion, whether the commission provided for in the agreement in question is unfair, namely: (a) — commission for issuing the card; (b) — commission for annual management of the card; (c) — commission for annual management of the additional card; (d) — commission for renewing the card; (e) — commission for replacing the card; (f) — commission for changing the PIN; (g) — commission for withdrawing cash from cash machines and over the counter (the bank's own or those of other banks in Romania or abroad); (h) — commission for payment of goods and/or services supplied by traders abroad or in Romania; (i) — commission for printing and sending statements of account; (j) — commission for viewing balances on cash machines; (k) — commission for late payment; (l) — commission for exceeding the credit limit; (m) — commission for unjustified refusal to pay — notwithstanding the fact that the amount of such commission is not specified in the agreement?

2) Is the following statement concerning annual interest: 'Interest on credit shall be calculated by reference to the daily balance, broken down by item (payments, cash withdrawals, charges and commission) and the daily rate of interest for the calculation period. Interest shall calculated on a daily basis in accordance with the following formula: the sum achieved by multiplying the amount of each item on the daily balance by the daily rate of interest applicable on the relevant day; the daily rate of interest shall be calculated as the ratio between the annual rate and 360 days' — which is of essential importance in the context of Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit, as amended by Directive 98/7/EC of the European Parliament and of the Council of 16 February 1998, which has similar wording — drafted in plain intelligible language within the meaning of Articles 3 and 4 of Directive 93/13/EEC?

3) Does the failure to indicate the amount of commission due under the agreement and the mere inclusion therein of the method of calculating interest, without any indication of the actual amount, allow the national court — pursuant to Council Directive 87/102/EEC of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit ([2]), as amended by Directive 98/7/EC of the European Parliament and of the Council of 16 February 1998 ([3]), and to Council Directive 93/13/EEC — to find that the failure to provide such information in the consumer credit agreement has the effect of rendering the credit granted commission and interest-free?

4) Does the co-debtor under a credit agreement fall within the definition of 'consumer' in Article 2(a) of Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts, and Article 1(2)(a) of Directive 87/102/EEC?

5) If the answer to the preceding question is in the affirmative, is the principle of the effectiveness of the rights conferred by directives satisfied where the amount of interest, commission and charges is made known only to the principal debtor by means of the monthly statement of account or the posting of a notice at the bank's headquarters?

6) Is Directive 87/102/EEC to be interpreted as meaning that the bank is required to inform in writing both the debtor and the co-debtor of the maximum credit limit, annual interest and costs applicable from the date on which the credit agreement is concluded, and of the circumstances under which those terms may be altered, the procedure for terminating the credit agreement, and any change made during the term of the credit agreement relating to annual interest or costs incurred after the credit agreement is signed, at the time those changes are made, by registered post with acknowlegment of receipt or by means of a statement of account provided free of charge?

([1]) Council Directive 93/13/EEC of 5 April 1993 on unfair terms in consumer contracts (OJ 1993 L 95, p. 29).

([2]) Council Directive of 22 December 1986 for the approximation of the laws, regulations and administrative provisions of the Member States concerning consumer credit (OJ 1987 L 42, p. 48).

([3]) Directive 98/7/EC of the European Parliament and of the Council of 16 February 1998 amending Directive 87/102/EEC (OJ 1998 L 101, p. 17).

Request for a preliminary ruling from the Tribunalul Cluj (Romania) lodged on 22 July 2014 — SC Capoda Import Export SRL v Registrul Auto Român, Bejan Benone Nicolae

(Case C-354/14)

(2014/C 361/05)

Language of the case: Romanian

Referring court

Tribunalul Cluj

Parties to the main proceedings

Applicant for revision: SC Capoda Import Export SRL

Defendants: Registrul Auto Român, Bejan Benone Nicolae

Questions referred

1. Can EU law, specifically Article 34 TFEU, Article 31(1) of Directive 2007/46/EC of the European Parliament and of the Council of 5 September 2007 establishing a framework for the approval of motor vehicles and their trailers, and of systems, components and separate technical units intended for such vehicles (Framework Directive) ([1]) and Article 1(1)(t) and (u) of Commission Regulation (EC) No 1400/2002 ([2]) be interpreted as precluding a rule of national law such as that referred to in Article 1(2), of OG (Ordonanța Guvernului; Government Decree) No 80/2000, in so far as it puts in place a measure having an effect equivalent to a quantitative restriction on imports, given that, in accordance with that rule, for the free movement (sale, distribution) of new products and consumable materials, included in the category of those relating to the safety of road traffic, the protection of the environment, energy efficiency and the protection against thefts of road vehicles, either an approval certificate or a certification for release for free circulation and/or marketing released by the manufacturer must be presented by the seller/distributor/dealer, or, where the seller/distributor/dealer had not obtained or was not in possession of such a certificate or certification, the certification procedure for products in question must be completed with the Registrul Auto Român (Romanian Automobile Register; 'RAR') and an approval certificate for release for free circulation and/or marketing released by the RAR must be obtained, and given that, even where the seller/distributor/dealer is in possession of a certificate of conformity for release for free circulation and/or marketing of parts made available by the distributor of a European Union Member State, which distributes freely such parts within the territory of that European Union Member State, such a certificate is not sufficient to allow for free movement/sale/distribution of the goods in question?

2. Can EU law, specifically Article 34 TFEU, relating to the notion of 'measures having equivalent effect to a quantitative restriction', Article 31(1) of Directive 2007/46/EC and Article 1(1)(t) and (u) of Commission Regulation (EC) No 1400/2002, be interpreted as precluding a national rule which provides that the certificate of conformity for the purpose of the placing on the market and/or marketing provided by the distributor in another EU Member State in relation to new products and consumable materials, included in the category of those relating to the safety of road traffic, environmental protection, energy efficiency and protection against thefts of road vehicles, is insufficient to allow the free marketing of new products and consumable materials, included in the category of those relating to the safety of road traffic, environmental protection, energy efficiency and protection against thefts of road vehicles, given that that distributor from another European Union Member State distributes these parts freely within the territory of that other European Union Member State, and notwithstanding the fact that, in accordance with the said certificate, the parts in question may be marketed in the territory of the European Union?

([1]) OJ L 263, p. 1.

([2]) Commission Regulation (EC) No 1400/2002 of 31 July 2002 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices in the motor vehicle sector (OJ 2002 L 203, p. 30).

Request for a preliminary ruling from the Conseil d'État (France) lodged on 11 August 2014 — Établissement national des produits de l'agriculture et de la mer (FranceAgriMer) v Sodiaal International

(Case C-383/14)

(2014/C 361/06)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Établissement national des produits de l'agriculture et de la mer (FranceAgriMer)

Defendant: Sodiaal International

Question referred

Do the provisions of the fourth subparagraph of Article 3(1) of Regulation No 2988/95 ([1]), pursuant to which limitation becomes effective at the latest on the day on which a period equal to twice the limitation period expires without the competent authority having imposed a penalty, except where the administrative procedure has been suspended in accordance with Article 6(1) thereof, apply exclusively where the competent authority has not imposed any sanction within the meaning of Article 5 of the regulation, on the expiry of a period equal to twice the limitation period, or do they also apply in the absence of any administrative measure, for the purposes of Article 4 thereof, being taken within that period?

([1]) Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities financial interests (OJ L 312, p. 1).

GENERAL COURT

Judgment of the General Court of 3 September 2014 — Unibail Management v OHIM (Representation of two lines and four stars)

(Case T-686/13) ([1])

(Community trade mark — Application for a figurative Community trade mark representing two lines and four stars — Absolute ground for refusal — Distinctive character — Article 7(1)(b) and Article 75 of Regulation (EC) No 207/2009 — Absence of concrete assessment — Duty to state reasons)

(2014/C 361/07)

Language of the case: French

Parties

Applicant: Unibail Management (Paris, France) (represented by: L. Bénard, A. Rudoni and O. Klimis, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, agent)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 3 September 2013 (case R 300/2013-2) concerning an application for registration of a sign representing two lines and 4 stars as a Community trade mark.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 3 September 2013 (case R 300/2013-2) in so far as it dismissed the appeal of Unibail Management for products and services falling within classes 16, 35, 36, 38, 41 and 42;*

2. *Orders OHIM to pay the costs.*

([1]) OJ C 52, 22.2.2014.

Judgment of the General Court of 3 September 2014 — Unibail Management v OHIM (Representation of two lines and five stars)

(Case T-687/13) ([1])

(Community trade mark — Application for a figurative Community trade mark representing two lines and five stars — Absolute ground for refusal — Distinctive character — Article 7(1)(b) and Article 75 of Regulation (EC) No 207/2009 — Absence of concrete assessment — Duty to state reasons)

(2014/C 361/08)

Language of the case: French

Parties

Applicant: Unibail Management (Paris, France) (represented by: L. Bénard, A. Rudoni, and O. Klimis, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: A. Folliard-Monguiral, agent)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 3 September 2013 (case R 299/2013-2), concerning an application for the registration of a sign representing two lines and five stars as a Community trade mark.

Operative part of the judgment

The Court:

1. *Annuls the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 3 September 2013 (case R 299/2013-2) in so far as it dismissed the appeal brought by Unibail Management for products and services falling within classes 16, 35, 36, 38, 41 and 42);*

2. *Orders OHIM to pay the costs.*

([1]) OJ C 52, 22.2.2014.

Order of the General Court of 17 July 2014 — The Directv Group v OHIM — Bolloré (DIRECTV)

(Case T-722/13) ([1])

(Community trade mark — Application for revocation — Withdrawal of the application for revocation — No need to adjudicate)

(2014/C 361/09)

Language of the case: English

Parties

Applicant: The Directv Group, Inc. (El Segundo, United States) (represented by: F. Valentin, lawyer)

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

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Bolloré (Ergué Gabéric, France) (represented by: S. Legrand, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 25 October 2013 (Case R 1960/2012-2) concerning opposition proceedings between Bolloré and The Directv Group, Inc.

Operative part of the order

1. *There is no longer any need to adjudicate on the action.*

2. *The applicant is ordered to bear its own costs and to pay those of the defendant and the intervener.*

([1]) OJ C 112, 14.4.2014.

Order of the General Court of 1 August 2014 — Energy Brands v OHIM — Smart Wines (SMARTWATER)

(Case T-81/14) ([1])

(Community trade mark — Opposition proceedings — Withdrawal of the opposition — No need to adjudicate)

(2014/C 361/10)

Language of the case: English

Parties

Applicant: Energy Brands, Inc. (Atlanta, United States) (represented by: D. Stone and R. Allos, Solicitors)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos, acting as Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervener before the General Court: Smart Wines GmbH (Cologne, Germany) (represented by: I. Schwarz, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 19 November 2013 (case R 903/2013-2), relating to opposition proceedings between Energy Brands, Inc. and Smart Wines GmbH.

Operative part of the order

1. *There is no longer any need to adjudicate on the action.*

2. *The applicant, the defendant and the intervener shall each bear their own costs.*

([1]) OJ C 135, 5.5.2014.

Order of the President of the General Court of 20 August 2014 — Gmina Miasto Gdynia and Port Lotniczy Gdynia Kosakowo v Commission

(Case T-215/14 R)

(Interim proceedings — State aid — Airport infrastructure — Public finance granted by the local authorities to a regional airport — Decision declaring the aid incompatible with the internal market and ordering its recovery — Application for suspension of operation — Lack of urgency)

(2014/C 361/11)

Language of the case: Polish

Parties

Applicants: Gmina Miasto Gdynia (Poland) and Port Lotniczy Gdynia Kosakowo sp. Z.o.o. (Gdynia, Poland) (represented by: T. Koncewicz and K. Gruszecka-Spychala, lawyers)

Defendant: European Commission (represented by: D. Grespan, S. Noë and A. Stobiecka-Kuik, Agents)

Re:

Application to suspend operation of Commission Decision C(2014) 759 final of 11 February 2014 relating to measure S. A,35388 (2013/C) (ex 2013/NN and ex 2012/N) — Poland — Conversion of the Gdynia-Kosakowo airport

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *Costs are reserved.*

Order of the President of the General Court of 20 August 2014 — Gmina Kosakowo v Commission

(Case T-217/14 R)

(Interim proceedings — State aid — Airport infrastructure — Public finance granted by the local authorities to a regional airport — Decision declaring the aid incompatible with the internal market and ordering its recovery — Application for suspension of operation — Lack of urgency)

(2014/C 361/12)

Language of the case: Polish

Parties

Applicant: Gmina Kosakowo (Poland) (represented by: M. Leśny, lawyer)

Defendant: European Commission (represented by: D. Grespan, S. Noë and A. Stobiecka-Kuik, Agents)

Re:

Application to suspend operation of Commission Decision C(2014) 759 final of 11 February 2014 relating to measure S. A,35388 (2013/C) (ex 2013/NN and ex 2012/N) — Poland — Conversion of the Gdynia-Kosakowo airport.

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *Costs are reserved.*

Order of the General Court of 20 August 2014 — Alsharghawi v Council

(Case T-532/14 R)

(Interim measures — Common foreign and security policy — Restrictive measures taken in view of the situation in Libya — List of persons and entities to which those measures apply — Application for suspension of operation — Lack of urgency — Weighing of interests)

(2014/C 361/13)

Language of the case: French

Parties

Applicant: Bashir Saley Bashir Alsharghawi (Johannesburg, South Africa) (represented by: E. Moutet, lawyer)

Defendant: Council of the European Union (represented by: A. Vitro and V. Piessevaux, Agents)

Re:

Application for suspension of operation of Council Decision 2011/137/CFSP of 28 February 2011 concerning restrictive measures in view of the situation in Libya (OJ 2011 L 58, p. 53) and Council Decision 2011/178/CFSP of 23 March 2011 amending Decision 2011/137/CFSP (OJ 2011 L 78, p. 24) in so far as they concern the applicant.

Operative part of the order

1. *The application for interim measures is dismissed.*

2. *Costs are reserved.*

Action brought on 5 June 2014 — Best-Lock (Europe) v OHIM — Lego Juris (Shape of a toy figure)

(Case T-398/14)

(2014/C 361/14)

Language in which the application was lodged: German

Parties

Applicant: Best-Lock (Europe) (Colne, United Kingdom) (represented by: W. Krahl, lawyer)

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

Other party to the proceedings before the Board of Appeal: Lego Juris A/S (Billund, Denmark)

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 April 2014 in Case R 1896/2013-4 and declare Community trade mark No 50 518 with respect to Class 28 to be revoked;

— order the defendant to pay the costs.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: Three-dimensional mark in the shape of a toy figure for goods in Classes 9, 25 and 28 — Community trade mark No 50 518

Proprietor of the Community trade mark: Lego Juris A/S

Party applying for revocation of the Community trade mark: The applicant

Decision of the Cancellation Division: Rejection in part of the application for a declaration of invalidity

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Infringement of Articles 51(1)(a) and 15(2)(a) of Regulation No 207/2009

Action brought on 30 July 2014 — Laverana v OHIM (BIO FLUIDE DE PLANTE PROPRE FABRICATION)

(Case T-568/14)

(2014/C 361/15)

Language of the case: German

Parties

Applicant: Laverana GmbH & Co. KG (Wennigsen, Germany) (represented by J. Wachinger, M. Zöbisch and D. Chatterjee, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 May 2014 in case R 120/2014-4;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs

Pleas in law and main arguments

Community trade mark concerned: Figurative mark which contains the word elements 'BIO FLUIDE DE PLANTE PROPRE FABRICATION' for goods and services in Classes 3, 5 and 35 — Community trade mark application No 11 922 631

Decision of the Examiner: Refused the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009;

— Misuse of powers by a decision on the basis of competition policy considerations

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Action brought on 30 July 2014 — Laverana v OHIM (BIO COMPLEXE DE PLANTES ENRICHI EN PROTÉINES PROPRE FABRICATION)

(Case T-569/14)

(2014/C 361/16)

Language of the case: German

Parties

Applicant: Laverana GmbH & Co. KG (Wennigsen, Germany) (represented by J. Wachinger, M. Zöbisch and D. Chatterjee, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 May 2014 in case R 122/2014-4;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs

Pleas in law and main arguments

Community trade mark concerned: Figurative mark which contains the word elements 'BIO COMPLEXE DE PLANTES ENRICHI EN PROTÉINES PROPRE FABRICATION' for goods and services in Classes 3, 5 and 35 — Community trade mark application No 11 922 961

Decision of the Examiner: Refused the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009;

— Misuse of powers by a decision on the basis of competition policy considerations

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Action brought on 30 July 2014 — Laverana v OHIM (BIO MIT PFLANZENFLUID AUS EIGENER HERSTELLUNG)

(Case T-570/14)

(2014/C 361/17)

Language of the case: German

Parties

Applicant: Laverana GmbH & Co. KG (Wennigsen, Germany) (represented by J. Wachinger, M. Zöbisch and D. Chatterjee, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 May 2014 in case R 124/2014-4;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs

Pleas in law and main arguments

Community trade mark concerned: Figurative mark which contains the word elements 'BIO MIT PFLANZENFLUID AUS EIGENER HERSTELLUNG' for goods and services in Classes 3, 5 and 35 — Community trade mark application No 11 922 581

Decision of the Examiner: Refused the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009;

— Misuse of powers by a decision on the basis of competition policy considerations

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Action brought on 30 July 2014 — Laverana v OHIM (BIO PROTEINREICHER PFLANZENKOMPLEX AUS EIGENER HERSTELLUNG)

(Case T-571/14)

(2014/C 361/18)

Language of the case: German

Parties

Applicant: Laverana GmbH & Co. KG (Wennigsen, Germany) (represented by J. Wachinger, M. Zöbisch and D. Chatterjee, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 May 2014 in case R 125/2014-4;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark which contains the word elements 'BIO PROTEINREICHER PFLANZENKOMPLEX AUS EIGENER HERSTELLUNG' for goods and services in Classes 3, 5 and 35 — Community trade mark application No 11 922 911

Decision of the Examiner: Refused the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009;

— Misuse of powers by a decision on the basis of competition policy considerations

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Action brought on 31 July 2014 — Laverana v OHIM (BIO CON ESTRATTI VEGETALI DI PRODUZIONE PROPRIA)

(Case T-572/14)

(2014/C 361/19)

Language of the case: German

Parties

Applicant: Laverana GmbH & Co. KG (Wennigsen, Germany) (represented by J. Wachinger, M. Zöbisch and D. Chatterjee, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 May 2014 in case R 527/2014-4;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark which contains the word elements 'BIO CON ESTRATTI VEGETALI DI PRODUZIONE PROPRIA' for goods and services in Classes 3, 5 and 35 — Community trade mark application No 12 130 076

Decision of the Examiner: Refused the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009;

— Misuse of powers by a decision on the basis of competition policy considerations.

Action brought on 6 August 2014 — Crosfield Italia v ECHA

(Case T-587/14)

(2014/C 361/20)

Language of the case: Italian

Parties

Applicant: Crosfield Italia Srl (Verona, Italy) (represented by: M. Baldassarri, lawyer)

Defendant: European Chemicals Agency (ECHA)

Form of order sought

The applicant claims that the General Court should annul and thereby declare invalid and/or deprived of effect Decision No SME/2013/4672 of 28 May 2014 of the European Chemicals Agency, communicated to the applicant on 9 June 2014, thus rendering inoperative each of the effects of that decision, including the annulment of the invoices issued for the recovery of higher taxes and penalties purportedly owing.

Pleas in law and main arguments

The present action is brought against the decision of the European Chemicals Agency that the applicant does not satisfy the requirements for being regarded as a small or medium-sized enterprise within the meaning of Regulation (EC) No 1907/2006 of the European Parliament and of the Council concerning the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), establishing a European Chemicals Agency, amending Directive 1999/45/EC and repealing Council Regulation (EEC) No 793/93 and Commission Regulation (EC) No 1488/94 as well as Council Directive 76/769/EEC and Commission Directives 91/155/EEC, 93/67/EEC, 93/105/EC and 2000/21/EC (OJ 2006 L 396, p. 1), denying the applicant the benefits provided for in that regulation and providing that it is to pay the fees and charges allegedly owing.

The pleas in law and main arguments are similar to those relied on in Case T-620/13 *Marchi Industriale* v *ECHA*.

Action brought on 8 August 2014 — Mechadyne International v OHIM (FlexValve)

(Case T-588/14)

(2014/C 361/21)

Language of the case: German

Parties

Applicant: Mechadyne International Ltd (Kirtlington, United Kingdom) (represented by S. von Petersdorff-Campen and E. Schaper, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 3 June 2014 in Case R 2435/2013-4;

— order OHIM to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark concerned: the figurative mark containing the word element 'FlexValve' for goods and services in Classes 7, 9, 12 and 42 — Community trade mark registration No 11 274 677

Decision of the Examiner: Registration refused

Decision of the Board of Appeal: Appeal dismissed

Pleas in law:

— Infringement of the right to be heard;

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009.

Action brought on 11 August 2014 — Makhlouf v Council

(Case T-592/14)

(2014/C 361/22)

Language of the case: French

Parties

Applicant: Ehab Makhlouf (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, order the European Union to pay compensation of EUR 10 000 for all the damage suffered by the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging that the contested measures are unlawful, in so far as they (i) infringe the obligation to state reasons laid down by Articles 296 TFEU and 41 of the Charter of Fundamental Rights of the European Union and (ii) infringe the applicant's right to property laid down by Article 1 of the Additional Protocol No 1 to the European Convention for the Protection of Human Rights and Fundamental Freedoms ('the ECHR') and Article 17 of the Charter of Fundamental Rights of the European Union, and infringe the right to respect for his good name and reputation, provided for in Articles 8 and 10 of the ECHR.

2. Second plea in law, alleging that the applicant has suffered damage as a direct causal link to the measures taken by the Council of the European Union.

3. Third plea in law, alleging, in the alternative, that a European Union regime of strict liability exists.

Action brought on 11 August 2014 — Makhlouf v Council

(Case T-593/14)

(2014/C 361/23)

Language of the case: French

Parties

Applicant: Rami Makhlouf (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, annul Decision 2014/309/CFSP of 28 May 2014 and its subsequent implementing measures, insofar as they concern the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are in essence identical or similar to those relied on in Case T-432/11 *Makhlouf* v *Council*. ([1])

([1]) OJ C 290, p. 13.

Action brought on 11 August 2014 — Makhlouf v Council

(Case T-594/14)

(2014/C 361/24)

Language of the case: French

Parties

Applicant: Rami Makhlouf (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, order the European Union to pay compensation of EUR 500 000 for all the damage suffered by the applicant;

— in the alternative, order that an expert be appointed to establish the extent of the damage suffered by the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are in essence identical or similar to those relied on in Case T-592/14 *Makhlouf* v *Council*.

Action brought on 11 August 2014 — Othman v Council

(Case T-595/14)

(2014/C 361/25)

Language of the case: French

Parties

Applicant: Razan Othman (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, order the European Union to pay compensation of EUR 10 000 for all the damage suffered by the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are in essence identical or similar to those relied on in Case T-592/14 *Makhlouf* v *Council*.

Action brought on 11 August 2014 — Syriatel Mobile Telecom v Council

(Case T-596/14)

(2014/C 361/26)

Language of the case: French

Parties

Applicant: Syriatel Mobile Telecom (Joint Stock Company) (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

— Declare the applicant's action admissible and well founded;

— In consequence, annul Decision 2014/309/CFSP of 28 May 2014 and its subsequent implementing acts in so far as they concern the applicant;

— Order the Council of the European Union to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are, in essence, identical or similar to those raised in Case T-592/14 *Makhlouf* v *Council* ([1]).

([1]) OJ C 290, p. 13.

Action brought on 11 August 2014 — Almashreq Investment Fund v Council

(Case T-598/14)

(2014/C 361/27)

Language of the case: French

Parties

Applicant: Almashreq Investment Fund (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, order the European Union to pay compensation of EUR 10 000 for all the damage suffered by the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are in essence identical or similar to those relied on in Case T-592/14 *Makhlouf* v *Council*.

Action brought on 11 August 2014 — Souruh v Council

(Case T-599/14)

(2014/C 361/28)

Language of the case: French

Parties

Applicant: Souruh SA (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, order the European Union to pay compensation of EUR 10 000 for all the damage suffered by the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are in essence identical or similar to those relied on in Case T-592/14 *Makhlouf* v *Council*.

Action brought on 11 August 2014 — Syriatel Mobile Telecom v Council

(Case T-600/14)

(2014/C 361/29)

Language of the case: French

Parties

Applicant: Syriatel Mobile Telecom (Joint Stock Company) (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare its action to be both admissible and well founded;

— consequently, order the European Union to pay full compensation for the damage suffered by the applicant, in the amount of EUR 488 829 000;

— in the alternative, order the appointment of an expert to establish the extent of the damage suffered by the applicant;

— order the Council of the European Union to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are essentially identical or similar to those raised in Case T-592/14 *Makhlouf* v *Council*.

Action brought on 11 August 2014 — Othman v Council

(Case T-601/14)

(2014/C 361/30)

Language of the case: French

Parties

Applicant: Razan Othman (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, annul Decision 2014/309/CFSP of 28 May 2014 and its subsequent implementing measures, insofar as they concern the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are in essence identical or similar to those relied on in Case T-432/11 *Makhlouf* v *Council* ([1]).

([1]) OJ C 290, p. 13.

Action brought on 11 August 2014 — Drex Technologies v Council

(Case T-603/14)

(2014/C 361/31)

Language of the case: French

Parties

Applicant: Drex Technologies SA (Tortola, British Virgin Islands) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

— Declare the applicant's action admissible and well founded;

— In consequence, order the European Union to compensate the applicant for the total loss suffered, up to EUR 10 000;

— Order the Council of the European Union to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are, in essence, identical or similar to those raised in Case T-592/14 *Makhlouf* v *Council*.

Action brought on 11 August 2014 — Almashreq Investment Fund v Council

(Case T-604/14)

(2014/C 361/32)

Language of the case: French

Parties

Applicant: Almashreq Investment Fund (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, annul Decision 2014/309/CFSP of 28 May 2014 and its subsequent implementing measures, insofar as they concern the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are in essence identical or similar to those relied on in Case T-432/11 *Makhlouf* v *Council* ([1]).

([1]) OJ C 290, p. 13.

Action brought on 11 August 2014 — Drex Technologies v Council

(Case T-605/14)

(2014/C 361/33)

Language of the case: French

Parties

Applicant: Drex Technologies SA (Tortola, British Virgin Islands) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare its action to be both admissible and well founded;

— consequently, annul Decision 2014/309/CFSP of 28 May 2014 and the subsequent measures implementing it in so far as they concern the applicant;

— order the Council of the European Union to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are essentially identical or similar to those raised in Case T-432/11 *Makhlouf* v *Council* ([1]).

([1]) OJ C 290, p. 13.

Action brought on 11 August 2014 — Makhlouf v Council

(Case T-606/14)

(2014/C 361/34)

Language of the case: French

Parties

Applicant: Ehab Makhlouf (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, annul Decision 2014/309/CFSP of 28 May 2014 and its subsequent implementing measures, insofar as they concern the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are in essence identical or similar to those relied on in Case T-432/11 *Makhlouf* v *Council*. ([1])

([1]) OJ C 290, p. 13.

Action brought on 11 August 2014 — Laverana v OHIM (ORGANIC WITH PLANT FLUID FROM OUR OWN PRODUCTION)

(Case T-608/14)

(2014/C 361/35)

Language of the case: German

Parties

Applicant: Laverana GmbH & Co. KG (Wennigsen, Germany) (represented by J. Wachinger, M. Zöbisch and D. Chatterjee, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 June 2014 in case R 121/2014-4;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs

Pleas in law and main arguments

Community trade mark concerned: Figurative mark which contains the word elements 'ORGANIC WITH PLANT FLUID FROM OUR OWN PRODUCTION' for goods and services in Classes 3, 5 and 35 — Community trade mark application No 11 922 697

Decision of the Examiner: Refused the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009;

— Misuse of powers by a decision on the basis of competition policy considerations

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Action brought on 11 August 2014 — Laverana v OHIM (ORGANIC PROTEIN RICH PLANT COMPLEX FROM OUR OWN PRODUCTION)

(Case T-609/14)

(2014/C 361/36)

Language of the case: German

Parties

Applicant: Laverana GmbH & Co. KG (Wennigsen, Germany) (represented by J. Wachinger, M. Zöbisch and D. Chatterjee, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 June 2014 in case R 123/2014-4;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs

Pleas in law and main arguments

Community trade mark concerned: Figurative mark which contains the word elements 'ORGANIC PROTEIN RICH PLANT COMPLEX FROM OUR OWN PRODUCTION' for goods and services in Classes 3, 5 and 35 — Community trade mark application No 11 922 986

Decision of the Examiner: Refused the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009;

— Misuse of powers by a decision on the basis of competition policy considerations

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Action brought on 11 August 2014 — Laverana v OHIM (BIO ORGANIC)

(Case T-610/14)

(2014/C 361/37)

Language of the case: German

Parties

Applicant: Laverana GmbH & Co. KG (Wennigsen, Germany) (represented by J. Wachinger, M. Zöbisch and D. Chatterjee, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 June 2014 in case R 301/2014-4;

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark which contains the word elements 'BIO ORGANIC' for goods and services in Classes 3, 5 and 35 — Community trade mark application No 12 006 409

Decision of the Examiner: Refused the application

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 7(1)(b) of Regulation No 207/2009;

— Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) of Regulation No 207/2009;

— Misuse of powers by a decision on the basis of competition policy considerations.

Action brought on 11 August 2014 — Souruh v Council

(Case T-612/14)

(2014/C 361/38)

Language of the case: French

Parties

Applicant: Souruh SA (Damascus, Syria) (represented by: E. Ruchat and C. Cornet d'Elzius, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the applicant's action admissible and well-founded;

— in consequence, annul Decision 2014/309/CFSP of 28 May 2014 and its subsequent implementing measures, insofar as they concern the applicant;

— order the Council of the European Union to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law which are in essence identical or similar to those relied on in Case T-432/11 *Makhlouf* v *Council* ([1]).

([1]) OJ C 290, p. 13.

Action brought on 20 August 2014 — Hewlett Packard Development Company v OHIM (FORTIFY)

(Case T-628/14)

(2014/C 361/39)

Language of the case: English

Parties

Applicant: Hewlett Packard Development Company LP (Dallas, United States) (represented by: T. Raab and H. Lauf, lawyers)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 2 June 2014 given in Case R 249/2014-2.

Pleas in law and main arguments

Community trade mark concerned: The word mark 'FORTIFY' for goods in Class 9 — Community trade mark application No. 11 771 037

Decision of the Examiner: Rejected the CTM application in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1)(b), (c) and (2) CTMR.

Action brought on 21 August 2014 — Jaguar Land Rover v OHIM (Shape of a car)

(Case T-629/14)

(2014/C 361/40)

Language of the case: English

Parties

Applicant: Jaguar Land Rover Ltd (Coventry, United Kingdom) (represented by: F. Delord and R. Grewal, Solicitors)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 24 April 2014 given in Case R 1622/2013-2.

Pleas in law and main arguments

Community trade mark concerned: The 3D mark representing a shape of a car for goods in Classes 12, 14 and 28 — Community trade mark application No. 11 388 411

Decision of the Examiner: Rejected the CTM application in part

Decision of the Board of Appeal: Dismissed the appeal in part

Pleas in law: Infringement of Article 7(1)(b) CTMR.

Action brought on 20 August 2014 — Primo Valore v Commission

(Case T-630/14)

(2014/C 361/41)

Language of the case: Italian

Parties

Applicant: Primo Valore (Rome, Italy) (represented by: M. Moretto, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— declare that the European Commission has failed to fulfil its obligations under Regulation No 999/2001 ([1]), Regulation No 178/2002 ([2]), and the general principles of non-discrimination and proportionality, by refraining from calling upon the Scrutiny Committee, in accordance with the procedure outlined in Article 5a(1) to (4) of Decision 1999/468/EC, to vote on a draft measure to review point 2 of Annex V to Regulation No 999/2001, pursuant to which specified risk material originating from Member States of the European Union must be removed and destroyed even if those Member States have been recognised as countries with a negligible BSE (Bovine Spongiform Encephalopathy) risk.

— order the Commission to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, based on the Commission's duty to act, in accordance with the last sentence of Article 8(1) of Regulation No 999/2001 (in conjunction with Article 5(1) and (3) of that regulation and Article 5(3) of Regulation No 178/2002), the second sentence of Article 7(2) of Regulation No 178/2002, and Articles 23 and 24 of Regulation No 999/2001.

   — In that regard, the applicant claims that, pursuant to the provisions cited above, the Commission is obliged to review the temporary derogation introduced by point 2 of Annex V to Regulation No 999/2001 and to submit to the Scrutiny Committee, following the procedure outlined in Article 5a of Decision 1999/468/EC, a draft measure to amend that annex. This must be done in order to ensure compliance with the international health standards adopted by the [International Office of Epizootic Diseases ('OIE')], which do not call for a list of specified risk material from countries which — like Italy — have been recognised as countries with a negligible risk or as countries whose risk level is the lowest possible under the international classification system adopted by the OIE.

2. Second plea in law, based on the Commission's duty to act, in accordance with the principle of non-discrimination, the second sentence of Article 7(2) of Regulation No 178/2002, and Articles 23 and 24 of Regulation No 999/2001.

   — In that regard, the applicant claims that, by virtue of the principle and provisions cited above, when the OIE recognised certain Member States of the European Union — Italy included — as countries with a negligible BSE risk (namely, May 2008, May 2011, May 2012 and May 2013), the Commission was required to update its legislation in the light of that new information and to review the derogation provided for in point 2 of Annex V to Regulation No 999/2001 in order to ensure observance of the principle of non-discrimination: first, the derogation in question treats differently similar situations: that of producers in Member States and that of producers in third countries which have been recognised as countries with a negligible BSE risk. Secondly, it treats identically different situations: that of producers in Member States which have been recognised as countries with a negligible BSE risk and that of producers in Member States which have not received such recognition.

3. Third plea in law, based on the Commission's duty to act, in accordance with the principle of proportionality, Article 7 (2) of Regulation No 178/2002, and Articles 23 and 24 of Regulation No 999/2001.

— In that regard, the applicant claims that, by virtue of the principle and provisions cited above, following the OIE's recognition of certain Member States of the European Union as countries with a negligible BSE risk, the Commission was under an obligation to update its legislation in the light of that new information and to review the temporary derogation provided for in point 2 of Annex V to Regulation No 999/2001 in order to ensure observance of the principle of proportionality. According to the applicant, it should be noted (inter alia) that the Commission's decision not to review the derogation provided for in point 2 of that annex is not suitable for attaining the objective of protecting health on which it is relying.

([1]) Regulation (EC) No 999/2001 of the European Parliament and of the Council of 22 May 2001 laying down rules for the prevention, control and eradication of certain transmissible spongiform encephalopathies (OJ 2001 L 147, p. 1).

([2]) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1).

Action brought on 22 August 2014 — Urb Rulmenti Suceava v OHIM — Adiguzel (URB)

(Case T-635/14)

(2014/C 361/42)

Language in which the application was lodged: English

Parties

Applicant: Urb Rulmenti Suceava SA (Suceava, Romania) (represented by: I. Burdusel, lawyer)

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

Other party to the proceedings before the Board of Appeal: Harun Adiguzel (Diosd, Hungary)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 23 June 2014 given in Case R 1974/2013-4.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The figurative mark containing the verbal element 'URB' for goods and services in Classes 4, 6-9, 11, 12, 16, 17, 35, 37 and 39-42 — the Community trade mark No 8 656 605

Proprietor of the Community trade mark: The party to the proceedings before the Board of Appeal

Applicant for the declaration of invalidity of the Community trade mark: The applicant

Grounds for the application for a declaration of invalidity: Absolute grounds for invalidity under Article 52(1)(b) CTMR and relative grounds for invalidity under Article 8(1)(a) and (b) in conjunction with Article 53(1)(a) CTMR

Decision of the Cancellation Division: Rejected the request for a declaration of invalidity

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 52(1)(b) CTMR, Article 8(1)(a) and (b) in conjunction with Article 53(1)(a) CTMR and Article 53(2) CTMR.

Action brought on 27 August 2014 — noon Copenhagen v OHIM — Wurster Diamonds (noon)

(Case T-637/14)

(2014/C 361/43)

Language in which the application was lodged: English

Parties

Applicant: noon Copenhagen A/S (Løsning, Denmark) (represented by: M. Zöbisch, lawyer)

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

Other party to the proceedings before the Board of Appeal: Wurster Diamonds GmbH (Pforzheim, Germany)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 12 June 2014 given in Case R 955/2013-4.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The figurative mark containing the verbal element 'noon' for goods and services in Class 14 — Community trade mark application No 10 215 556

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: The figurative mark containing the verbal element 'noor' for goods in Class 14

Decision of the Opposition Division: Upheld the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 8(1)(1)(b) CTMR.

Order of the General Court of 17 July 2014 — AbbVie v EMA

(Case T-29/13) ([1])

(2014/C 361/44)

Language of the case: English

The President of the Fourth Chamber has ordered that the case be removed from the register.

([1]) OJ C 79, 16.3.2013.

Order of the General Court of 17 July 2014 — AbbVie v EMA

(Case T-44/13) ([1])

(2014/C 361/45)

Language of the case: English

The President of the Fourth Chamber has ordered that the case be removed from the register.

([1]) OJ C 79, 16.3.2013.

EUROPEAN UNION CIVIL SERVICE TRIBUNAL

Action brought on 7 July 2014 — ZZ v Commission

(Case F-62/14)

(2014/C 361/46)

Language of the case: French

Parties

Applicant: ZZ (represented by: M.-A. Lucas, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Civil service — Application for annulment of the Commission's decision not to admit the applicant to the translation tests — EPSO competition (AD/263/13) to establish a reserve recruitment list of Italian translators.

Form of order sought

— annul the decision of 19/11/2013 not to admit the applicant to the translation tests;

— if necessary, annul the decision of 27/3/2014 dismissing the applicant's complaint;

— order the Commission to pay the costs.

Action brought on 12 July 2014 — ZZ v Commission

(Case F-64/14)

(2014/C 361/47)

Language of the case: French

Parties

Applicant: ZZ (represented by: M.-A. Lucas, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Civil service — Application for annulment of the Commission's decision not to admit the applicant to the translation tests of EPSO competition AD/263/13 to establish a reserve recruitment list of Italian translators.

Form of order sought

— annul the decision of 19/11/2013 not to admit the applicant to the translation tests;

— if necessary, annul the decision of 2/4/2014 dismissing the applicant's complaint;

— order the Commission to pay the costs.

Action brought on 15 July 2014 — ZZ v Commission

(Case F-66/14)

(2014/C 361/48)

Language of the case: French

Parties

Applicant: ZZ (represented by: S. Orlandi, lawyer)

Defendant: European Commission

Subject-matter and description of the proceedings

Civil Service — Application for a declaration that Article 9 of the General Implementing Provisions (GIPs) of Article 11(2) of Annex VIII to the Staff Regulations of 3 March 2011 is unlawful and inapplicable and for the annulment of the decision concerning the transfer of the applicant's pension rights to the European Union pension scheme which applies those new GIPs.

Form of order sought

— Declare that Article 9 of the General Implementing Provisions of Article 11(2) of Annex VIII to the Staff Regulations of 3 March 2011 is unlawful and, accordingly, inapplicable;

— Annul the decision of 4 October 2013 to increase the pension rights acquired by the applicant before her entry into service, on transfer of those rights to the pension scheme of the EU institutions, by application of the GIPs of Article 11 (2) of Annex VIII to the Staff Regulations of 3 March 2011;

— Order the Commission to pay the costs.

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