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(Announcements)

COURT PROCEEDINGS

COURT OF JUSTICE

Appeal brought on 6 February 2015 by Arthur Lambauer against the order of the General Court (First Chamber) of 11 December 2014 in Case T-490/14, Arthur Lambauer v Council of the European Union

(Case C-52/15 P)

(2015/C 337/02)

Language of the case: German

Parties

Appellant: Arthur Lambauer

Other party to the proceedings: Council of the European Union

By order of 3 September 2015 the Court of Justice of the European Union (Sixth Chamber) dismissed the appeal and ordered the appellant to bear his own costs.

Request for a preliminary ruling from the Judecătoria Balș (Romania) lodged on 28 May 2015 — SC Casa Noastră SA v Ministerul Transporturilor — Inspectoratul de Stat pentru Controlul Transportului Rutier ISCTR

(Case C-245/15)

(2015/C 337/03)

Language of the case: Romanian

Referring court

Judecătoria Balș

Parties to the main proceedings

Applicant: SC Casa Noastră SA

Defendant: Ministerul Transporturilor — Inspectoratul de Stat pentru Controlul Transportului Rutier ISCTR

Questions referred

1) To what extent may the expression 'by whomsoever organised' used in Article 2(3) of Regulation No 1073/2009 ([1]) be interpreted as meaning that a regular transport service can be organised by an economic operator for the purpose of carrying its own employees to and from work?

2) To what extent may the expression 'carriage of passengers on regular services where the route covered does not exceed 50 kilometres', used in Article 3(a) of Regulation No 561/2006 ([2]) be interpreted as meaning that it applies to workers in connection with their travel to and from the workplace?

([1]) Regulation (EC) No 1073/2009 of the European Parliament and of the Council of 21 October 2009 on common rules for access to the international market for coach and bus services, and amending Regulation (EC) No 561/2006 (Text with EEA relevance) (OJ 2009 L 300, p. 88).

([2]) Regulation (EC) No 561/2006 of the European Parliament and of the Council of 15 March 2006 on the harmonisation of certain social legislation relating to road transport and amending Council Regulations (EEC) No 3821/85 and (EC) No 2135/98 and repealing Council Regulation (EEC) No 3820/85 (Text with EEA relevance) — Declaration (OJ 2006 L 102, p. 1).

Appeal brought on 11 July 2015 by Easy Sanitary Solutions BV against the judgment of the General Court (Eighth Chamber) delivered on 13 May 2015 in Case T-15/13 *Group Nivelles* v *OHIM — Easy Sanitary Solutions* (*Shower drainage channel*)

(Case C-361/15 P)

(2015/C 337/04)

Language of the case: Dutch

Parties

Appellant: Easy Sanitary Solutions BV (represented by: F. Eijsvogels, advocaat)

Other parties to the proceedings: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) and Group Nivelles BVBA

Form of order sought

The appellant claims that the Court should

— on the basis of the … grounds put forward and the accompanying explanations, set aside in part the judgment of the General Court of 13 May 2015 in Case T-15/13 and order the unsuccessful party to pay the costs.

Grounds of appeal and main arguments

Ground 1

Part (a)

The General Court infringed Article 25(1)(b) of Regulation No 6/2002 ([1]), in conjunction with Article 7(1) thereof, in holding that an earlier design which is incorporated in or applied to a product other than that to which a later design relates is in principle relevant to the assessment of the novelty, within the meaning of Article 5 of Regulation No 6/2002, of that later design and that the wording of the latter article would preclude a design from being regarded as new where an identical design has been previously made available to the public, irrespective of the product in which that earlier design has been incorporated or to which it has been applied. The finding of the General Court that the 'sector concerned', within the meaning of Article 7(1) of Regulation No 6/2002, is not limited to that of the product in which the contested design is intended to be incorporated or to which it is intended to be applied is incorrect in law.

Part (b)

The General Court infringed Article 25(1)(b) of Regulation No 6/2002, in conjunction with Article 5 thereof, in holding that a Community design cannot be regarded as new for the purposes of Article 5(1) of Regulation No 6/2002 if an identical design has been made available to the public before the dates mentioned in that provision, even if that older design was incorporated in or applied to a product other than the product or products indicated in the application pursuant to Article 36(2) of Regulation No 6/2002.

Part (c)

The General Court infringed Articles 10, 19 and 36(6) of Regulation No 6/2002 in finding that those articles imply that the holder of a registered design right can prevent third parties not having its consent from using on any sort of product the design which it holds and any design which does not produce on the informed user a different overall impression.

Ground 2

In taking the view that the limits of the review of legality had been exceeded, as it did in the last sentence of paragraph 137 of its judgment, the General Court infringed Article 61 of Regulation No 6/2002.

(1) Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ 2002 L 3, p. 1).

Request for a preliminary ruling from the Commissione Tributaria Regionale di Roma (Italy) lodged on 16 July 2015 — Mercedes Benz Italia SpA v Agenzia delle Entrate Direzione Provinciale Roma 3

(Case C-378/15)

(2015/C 337/05)

Language of the case: Italian

Referring court

Commissione Tributaria Regionale di Roma

Parties to the main proceedings

Applicant: Mercedes Benz Italia SpA

Defendant: Agenzia delle Entrate Direzione Provinciale Roma 3

Question referred

For the purposes of exercising the right of deduction, are national provisions (in particular Articles 19(5) and 19-bis of Decree 633/1972 of the President of the Republic) and the practice of the national tax authorities which require that reference be had to the composition of a trader's turnover, including in order to identify so-called incidental transactions, but make no provision for a method of calculation that is based on [both] the composition and the actual destination of the acquisitions and that objectively reflects the actual share of the expenditure attributable to each of the — taxed and untaxed — activities engaged in by the taxpayer incompatible with an interpretation of Articles 168, 173, 174 and 175 of Directive 2006/112/EC (1) which is guided by the principles of proportionality, effectiveness and neutrality, as set out in Community law?

(1) Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (OJ 2006 L 347, p. 1).

Request for a preliminary ruling from the Conseil d'État (France) lodged on 16 July 2015 — Association France Nature Environnement v Premier ministre, Ministre de l'écologie, du développement durable et de l'énergie

(Case C-379/15)

(2015/C 337/06)

Language of the case: French

Referring court

Conseil d'État

Parties to the main proceedings

Applicant: Association France Nature Environnement

Defendants: Premier ministre, Ministre de l'écologie, du développement durable et de l'énergie

Questions referred

1) Should a national court, exercising its general jurisdiction under EU law, in all cases request a preliminary ruling from the Court of Justice of the European Union so that it can determine whether provisions held by the national court to be contrary to EU law should be maintained temporarily in force?

2) If the answer to that first question is in the affirmative, is the decision that may be made by the Conseil d'État to maintain, until 1 January 2016, the effects of the provisions of the Article 1 of the Decree of 2 May 2012 concerning the assessment of certain plans and documents having an impact on the environment, which it holds to be illegal, justified in particular by an overriding consideration linked to the protection of the environment?

Request for a preliminary ruling from the Naczelny Sąd Administracyjny (Poland) lodged on 21 July 2015 — Dyrektor Izby Skarbowej w Krakowie v ESET spol. s r.o. sp. z o.o., oddział w Polsce

(Case C-393/15)

(2015/C 337/07)

Language of the case: Polish

Referring court

Naczelny Sąd Administracyjny

Parties to the main proceedings

Applicant: Dyrektor Izby Skarbowej w Krakowie

Defendant: ESET spol. s r.o. sp. z o.o., oddział w Polsce

Question referred

Do Articles 168 and 169(a) of Council Directive 2006/112/EC of 28 November 2006 on the common system of value added tax ([1]) not preclude, in the case of a branch registered for VAT purposes in one Member State and carrying out mainly intra-company transactions for a parent company established in another Member State and occasionally also transactions taxable in the State where the branch is registered, the taxable person from being entitled to deduct input tax in the State in which the branch is registered, despite the fact that the tax is linked to transactions carried out by the parent company in another Member State?

([1]) OJ 2006 L 347, p. 1.

Appeal brought on 24 July 2015 by the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) against the judgment of the General Court (Eighth Chamber) delivered on 13 May 2015 in Case T-15/13 *Group Nivelles* v *OHIM — Easy Sanitary Solutions (Shower drainage channel)*

(Case C-405/15 P)

(2015/C 337/08)

Language of the case: Dutch

Parties

Appellant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: S. Bonne and A. Folliard-Monguiral, acting as Agents)

Other parties to the proceedings: Group Nivelles NV and Easy Sanitary Solutions BV

Form of order sought

OHIM claims that the Court should:

— set aside the judgment under appeal;

— order the applicant and the intervener before the General Court to pay the costs incurred by OHIM.

Grounds of appeal and main arguments

The General Court infringed Article 63(1) of [Regulation No 6/2002] ([1]) in holding that the older design, relied on in support of the application for a declaration of invalidity, is the 'whole of the drainage device for liquid waste available from the company Blücher'. Group Nivelles relied only on the cover plate made available to the public both by Blücher and by other companies, irrespective of the shape of the collector;

The General Court infringed Article 25(1)(b) of [Regulation No 6/2002], read in conjunction with Article 5 thereof, in holding that OHIM was required to compare the contested Community design with an earlier design resulting from the combination of two separate components, disclosed in various documents. According to the case-law of the Court of Justice applicable to Article 5 of [Regulation No 6/2002], the contested design may not be compared with 'earlier individualised and defined designs, as opposed to an amalgam of specific features or parts of earlier designs'. The appearance of a product as assembled can sometimes be deduced from the appearance of its constituent parts, but that overall appearance remains hypothetical or, at any rate, subject to significant approximations. The concept of identity between two designs, specific to Article 5 of [Regulation No 6/2002], precludes a comparative analysis based on hypotheses or approximations;

The General Court infringed Article 25(1)(b) of [Regulation No 6/2002], read in conjunction with Articles 6 and 7(1) thereof, in taking the view that, in the event that the compared designs are incorporated into products which differ in nature or in purpose, that difference may mean that it is impossible for the relevant informed user to recognise the earlier design. Article 7 of [Regulation No 6/2002] contains a legal fiction by which every 'disclosed' design is assumed to be known both to the professional public of the sector concerned by the earlier design and to the public of informed users of the type of product concerned by the contested design. Once the earlier design's disclosure is established, it has to be assumed that the relevant informed user has knowledge both of the earlier design and of its methods of use, as follow from the evidence and arguments advanced by the parties.

(1) Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ 2002 L 3, p. 1).

Request for a preliminary ruling from the Varhoven administrativen sad (Bulgaria) lodged on 24 July 2015 — Petya Milkova v Agentsia za privatizatsia i sledprivatizatsionen kontrol

(Case C-406/15)

(2015/C 337/09)

Language of the case: Bulgarian

Referring court

Varhoven administrativen sad

Parties to the main proceedings

Applicant: Petya Milkova

Defendant: Agentsia za privatizatsia i sledprivatizatsionen control

Other party to the proceedings: Varhovna administrativna prokuratura

Questions referred

1. Does Article 5(2) of the United Nations Convention on the Rights of Persons with Disabilities permit the Member States to provide by law for specific advance protection against dismissal only for persons with disabilities who are employees, and not for civil servants with the same disabilities?

2. Do Article 4 and the further provisions of Council Directive 2000/78/EC (1) of 27 November 2000 establishing a general framework for equal treatment in employment and occupation permit a national rule providing for specific protection against dismissal for persons with disabilities who are employees, but not for civil servants with the same disabilities?

3. Does Article 7 of Directive 2000/78 permit persons with disabilities who are employees, but not civil servants with the same disabilities, to be afforded specific advance protection?

4. If the first and third questions are answered in the negative: In light of the foregoing facts and circumstances of the present case, is it necessary in order to comply with the provisions of international and Community law that the specific advance protection against dismissal for persons with disabilities who are employees provided for by the national legislator also be applied to civil servants with the same disabilities?

(1) OJ 2000 L 303, p. 16.

Appeal brought on 29 July 2015 by Stichting Woonlinie and Others against the order of the General Court (Seventh Chamber) made on 12 May 2015 in Case T-202/10 RENV *Stichting Woonlinie and Others* v *European Commission*

(Case C-414/15 P)

(2015/C 337/10)

Language of the case: Dutch

Parties

Appellants: Stichting Woonlinie, Stichting Allee Wonen, Woningstichting Volksbelang, Stichting WoonInvest, Stichting Woonstede (represented by: P. Glazener, advocaat, and L. Hancher, professor)

Other parties to the proceedings: European Commission, Kingdom of Belgium, Vereniging van Institutionele Beleggers in Vastgoed, Nederland (IVBN)

Form of order sought

The appellants claim that the Court should:

— set aside, in whole or in part, the order of the General Court (Seventh Chamber) of 12 May 2015 in Case T-202/10 RENV, in accordance with the grounds raised in the present appeal;

— refer the case back to the General Court for a new ruling consistent with the legal findings of the Court of Justice;

— order the Commission to pay the costs both of the present proceedings and of the proceedings before the General Court.

Grounds of appeal and main arguments

According to the first ground, the General Court infringed EU law, incorrectly assessed the relevant facts and provided an inadequate statement of reasons for the order in finding that the applicants' objections were in fact directed against the Article 17 letter and that the General Court's review could not be extended to those objections. By its assessment, the General Court disregards the fact that, as is apparent from Article 108(1) TFEU, the justification for the legal consequences of the decision must stem from the fact that the previous situation had been incompatible with the Treaty. The General Court misinterprets the *TF1* judgment by inferring from it that its review of the contested decision had to be limited to the question of whether the Commission had correctly assessed the compatibility of the existing system of aid as modified by the commitments undertaken by the Netherlands authorities.

According to the second ground, the General Court infringed EU law, incorrectly assessed the relevant facts and provided an inadequate statement of reasons for the order in finding that it could not assess the appropriate measures proposed by the Commission given that they were mere proposals and that it was the adoption by the Netherlands authorities which gave the appropriate measures binding force.

Appeal brought on 29 July 2015 by Stichting Woonpunt and Others against the order of the General Court (Seventh Chamber) made on 12 May 2015 in Case T-203/10 RENV *Stichting Woonpunt and Others* v *European Commission*

(Case C-415/15 P)

(2015/C 337/11)

Language of the case: Dutch

Parties

Appellants: Stichting Woonpunt, Stichting Havensteder, formerly Stichting Com.wonen, Woonstichting Haag Wonen, Stichting Woonbedrijf SWS.Hhvl (represented by: P. Glazener, advocaat, and L. Hancher, professor)

Other parties to the proceedings: European Commission, Kingdom of Belgium, Vereniging van Institutionele Beleggers in Vastgoed, Nederland (IVBN)

Form of order sought

The appellants claim that the Court should:

— set aside, in whole or in part, the order of the General Court (Seventh Chamber) of 12 May 2015 in Case T-203/10 RENV, in accordance with the grounds raised in the present appeal;

— refer the case back to the General Court for a new ruling consistent with the legal findings of the Court of Justice;

— order the Commission to pay the costs both of the present proceedings and of the proceedings before the General Court.

Grounds of appeal and main arguments

According to the first ground, the General Court infringed EU law, incorrectly assessed the relevant facts and provided an inadequate statement of reasons for the order in finding that the then applicants' objections were in fact directed against the Article 17 letter and that the General Court's review could not be extended to those objections. By its assessment, the General Court disregards the fact that, as is apparent from Article 108(1) TFEU, the justification for the legal consequences of the decision must stem from the fact that the previous situation had been incompatible with the Treaty. The General Court misinterprets the *TF1* judgment by inferring from it that its review of the contested decision had to be limited to the question of whether the Commission had correctly assessed the compatibility of the existing system of aid as modified by the commitments undertaken by the Netherlands authorities.

According to the second ground, the General Court infringed EU law, incorrectly assessed the relevant facts and provided an inadequate statement of reasons for the order in finding that it could not assess the appropriate measures proposed by the Commission given that they were mere proposals and that it was the adoption by the Netherlands authorities which gave the appropriate measures binding force.

Appeal brought on 3 August 2015 by the Diputación Foral de Bizkaia against the judgment delivered on 19 May 2015 by the General Court (Second Chamber) in Case T-397/12 *Diputación Foral de Bizkaia* v *Commission*

(Case C-426/15 P)

(2015/C 337/12)

Language of the case: Spanish

Parties

Appellant: Diputación Foral de Bizkaia (represented by: I. Sáenz-Cortabarría Fernández, lawyer)

Other party to the proceedings: European Commission

Form of order sought

The appellant claims that the Court should:

— set aside the judgment under appeal

— grant the application made at first instance

— order the Commission to pay the costs of the proceedings at first instance and of the appeal

Grounds of appeal and main arguments

First ground of appeal: Error of law in the interpretation and application of Article 108(3) TFEU, first sentence (obligation to give prior notice) and, in particular, of the word 'conceder' (grant) which appears in [the Spanish version of] that provision in connection with the word 'otorgar' (grant) referred to in Article 107(1) TFEU, in that the General Court confirmed the Commission's statement (article 2 of the Contested Decision) ([1]) that the aid notified in the agreements is unlawful, that aid being 'granted' on 15 December 2006 in breach of the obligation of prior notification. Error of law in not applying the principle of EU Law in relation to state aid in accordance with which any assessment to determine the moment at which state aid can be considered 'granted' has to be undertaken in the light of the national legislation applicable to the case in point. Error of law in wrongly applying the concept of 'unlawful aid' laid down in Article 1(f) of Regulation No 659/1999 ([2]). Breach of the principle of legality.

Second ground of appeal: the General Court erred in law in confirming the existence of an 'unlawful aid' in the 'land agreement' on the basis of the stipulation of a time-limit of 12 months. Error of law in failing to apply the principle of EU law in relation to state aid in accordance with which any assessment to determine the moment at which state aid can be considered 'granted' has to be undertaken in the light of the national law applicable to the case in point.

Third ground of appeal: Error of law in that the General Court did not find that the Commission, in adopting the contested decision, breached the principle of good administration. Error of law in not finding the infringement of the rights and procedural guarantees available to the Diputación as a party concerned in the proceedings pursuant to Article 108(2) TFEU. Error of law in holding implicitly that the Commission's letter of 15 April 2010 was a satisfactory response to the requirements flowing from the above-cited general principle. Distortion of the clear sense of the main evidence. Breach of the right to a fair hearing. Breach of the rights of defence.

(1) Commission Decision C(2012) 4194 final of 27 June 2012, concerning state aid SA. 28356 (C 37/20090) (ex N 226/2009).
(2) Council Regulation No 659/1999 of 22 March 1999, laying down detailed rules for the application of Article [108 TFEU] (OJ 1999 L 83, p.1).

Request for a preliminary ruling from the Lietuvos vyriausiasis administracinis teismas (Lithuania) lodged on 10 August 2015 — Lietuvos Respublikos aplinkos ministerijos Aplinkos projektų valdymo agentūra v UAB 'Alytaus regiono atliekų tvarkymo centras'

(Case C-436/15)

(2015/C 337/13)

Language of the case: Lithuanian

Referring court

Lietuvos vyriausiasis administracinis teismas

Parties to the main proceedings

Appellant: Lietuvos Respublikos aplinkos ministerijos Aplinkos projektų valdymo agentūra

Other parties: UAB 'Alytaus regiono atliekų tvarkymo centras', Lietuvos Respublikos finansų ministerija, UAB 'Skirnuva', UAB 'Parama', UAB 'Alkesta', UAB 'Dzūkijos statyba'

Questions referred

1. What constitutes a 'multiannual programme' within the meaning of Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 (1) on the protection of the European Communities' financial interests?
2. Do projects such as No 2001/LT/16/P/PE/003: 'Establishment of a waste management system for the Alytus Region', which was granted support by Commission Decision No PH(2001)5367 of 13 December 2001 approving Measure 2001 LT 16 P PE 003, as amended by Commission Decision No PH/2002/9380 of 23 December 2002, correspond to the concept of a 'multiannual programme' set out in Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests?
3. If the answer to the second question is 'yes': what point in time should be regarded as constituting the start of the limitation period for proceedings under Article 3(1) of Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests?

(1) OJ 1995 L 312, p. 1.

GENERAL COURT

Order of the General Court of 5 August 2015 — Sales & Solutions v OHIM — Wattline (WATTLINE)

(Case T-46/14) ([1])

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

(2015/C 337/14)

Language of the case: German

Parties

Applicant: Sales & Solutions GmbH (Frankfurt am Main, Germany) (represented by: K. Gründig-Schnelle, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: G. Schneider and D. Botis, acting as Agents)

Other party to the proceedings before the Board of Appeal of OHIM intervening before the General Court: Wattline GmbH (Ruderting, Germany) (represented by: C. Flisek, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 18 November 2013 (Case R 1668/2012-4), relating to opposition proceedings between Sales & Solutions GmbH and Wattline GmbH

Operative part of the order

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

2. *Sales & Solutions GmbH shall pay the costs.*

([1]) OJ C 78, 15.3.2014.

Order of the General Court of 16 July 2015 — NK Rosneft and Others v Council

(Case T-69/15) ([1])

(Action for annulment — Common foreign and security policy — Restrictive measures adopted in view of Russia's actions destabilising the situation in Ukraine — Lis pendens — Manifest inadmissibility)

(2015/C 337/15)

Language of the case: English

Parties

Applicants: NK Rosneft OAO (Moscow, Russia); RN-Shelf-Arctic OOO (Moscow); RN-Shelf-Dalniy Vostok ZAO (Yuzhniy-Sakhalin, Russia); RN-Exploration OOO (Moscow); and Tagulskoe OOO (Krasnoyarsk, Russia) (represented by: T. Beazley QC)

Defendant: Council of the European Union (represented by: S. Boelaert and B. Driessen, acting as Agents)

Re:

Application for partial annulment of Council Decision 2014/872/CFSP of 4 December 2014 amending Decision 2014/512/CFSP concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and Decision 2014/659/CFSP amending Decision 2014/512/CFSP (OJ 2014 L 349, p. 58), and Council Regulation (EU) No 1290/2014 of 4 December 2014 amending Regulation (EU) No 833/2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine, and amending Regulation (EU) No 960/2014 amending Regulation (EU) No 833/2014 (OJ 2014 L 349, p. 20), in so far as those acts concern the applicants.

Operative part of the order

1) *The action is dismissed as manifestly inadmissible.*

2) *NK Rosneft OAO, RN-Shelf-Arctic OOO, RN-Shelf-Dalniy Vostok ZAO, RN-Exploration OOO and Tagulskoe OOO shall bear their own costs.*

([1]) OJ C 228, 13.7.2015.

Action brought on 3 July 2015 — JT v OHIM — Carrasco Pirard and others (QUILAPAYÚN)

(Case T-249/15)

(2015/C 337/16)

Language in which the application was lodged: Spanish

Parties

Applicant: JT (Paris, France) (represented by: A. Mena Valenzuela, lawyer)

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

Other parties to the proceedings before the Board of Appeal: Eduardo Carrasco Pirard (Santiago, Chile), Guillermo García Campos (Brussels, Belgium), Luis Hernán Gómez Larenas (Paris, France), Hugo Lagos Vásquez (Taverny, France), Ismael Oddo Méndez (Santiago, Chile), Carlos Quezada Salas (Colombes, France), Ricardo Venegas Carhart (Santiago, Chile), Sebastián Quezada (Paris, France)

Details of the proceedings before OHIM

Applicant for the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community figurative mark containing the word element 'QUILAPAYÚN' — Application for registration No 9 267 287

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 13 March 2015 in Case R 354/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision; and

— reject the application for registration of the figurative mark 'QUILAPAYÚN' for goods and services in Class 9 and Class 41 brought before OHIM by the applicants Eduardo Carrasco Pirard, Guillermo García Campos, Luis Hernán Gómez Larenas, Hugo Lagos Vásquez, Ismael Oddo Méndez, Carlos Quezada Salas, Ricardo Venegas Carhart and Sebastián Quezada on 16 September 2010.

Plea in law

Incorrect interpretation of Article 8(1)(b) and 2(c) of Regulation (EC) No 207/2009 read in conjunction with Article 6*bis*(1) of the Paris Convention.

Action brought on 6 July 2015 — Austria v Commission

(Case T-356/15)

(2015/C 337/17)

Language of the case: German

Parties

Applicant: Republic of Austria (represented by: C. Pesendorfer, Agent, and H. Kristoferitsch, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Commission Decision (EU) 2015/658 of 8 October 2014 on the aid measure SA.34947 (2013/C) (ex 2013/N) which the United Kingdom is planning to implement for support to the Hinkley Point C nuclear power station (notified under document C(2014) 7142);

— order the Commission to pay the costs.

Pleas in law and main arguments

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

1. First plea in law: Incorrect application of Article 107(3)(c) TFEU — Erroneous market definition and incorrect assumption of market failures

   The applicant asserts that the Commission wrongly authorised the planned State aid pursuant to Article 107(3)(c) TFEU in so far as it wrongly accepts the existence of a separate market for nuclear energy and — also wrongly — assumes that there is a market failure on that market.

2. Second plea in law: Infringement of Article 107(3)(c) TFEU — Incorrect assessment of the nuclear power station as 'new technology'

In that regard, it is claimed that the decision is also void because the Commission wrongly relies on the fact that the technology at issue is new technology.

3. Third plea in law: Incorrect application of Article 107(3)(c) TFEU — Incorrect assumption of the existence of investment aid

In the context of the third plea in law, the applicant asserts that the Commission wrongly assumes that the envisaged measures are mere investment aid; in actual fact, the aid far exceeds mere investment aid and constitutes operating aid, which is unlawful according to the case-law of the Courts of the European Union.

4. Fourth plea in law: Incorrect application of Article 107(3)(c) TFEU — Lack of an objective of common interest

In that regard, the applicant submits that the contested decision is also void in so far as — contrary to the Commission's view — there is no common interest pursuant to Article 107(3)(c) TFEU, which is needed for the authorisation of the aid.

5. Fifth plea in law: Inadequate definition of the aid

The Republic of Austria bases its action on the fact that the Commission defined the aid in a completely inadequate manner.

6. Sixth plea in law: Incorrect application of Article 107(3)(c) TFEU — Inappropriateness of the measures

In the applicant's view, the explanations of the Commission as regards the appropriateness of the aid are inaccurate and incomprehensible, which also makes the decision void.

7. Seventh plea in law: Infringement of the basic requirements of tendering procedures

In the context of this plea in law, the applicant contends that the aid also should not have been authorised because the United Kingdom did not carry out a public procurement procedure and infringed the EU law principles of equal treatment and transparency.

8. Eighth plea in law: Infringement of the Guarantees Notice ([1])

In that regard, the applicant complains that the State guarantee authorised as part of the State aid was not examined on the basis of the criteria of the Guarantees Notice.

9. Ninth plea in law: Failure to comply with the obligation to state reasons pursuant to the second paragraph of Article 296 TFEU

In addition, the Commission infringed its obligation to state reasons in many ways and in a very serious manner.

10. Tenth plea in law: Infringement of the right to be heard

Lastly, the applicant also alleges an infringement of the right to be heard.

([1]) Commission Notice on the application of Articles 87 [EC] and 88 [EC] to State aid in the form of guarantees (OJ 2008 C 155, p. 10).

Action brought on 6 July 2015 — Työhönvalmennus Valma/OHIM (box shape)

(Case T-363/15)

(2015/C 337/18)

Language of the case: Finnish

Parties

Applicant: Työhönvalmennus Valma Oy (Lahti, Finland) (represented by: S. Salonen and K. Parviainen, lawyers)

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

Details of the proceedings before OHIM

Trade mark at issue: (Representation of a tridimensional mark (Shape of box) — Application for registration No 12137337

Contested decision: Decision of the Second Board of Appeal of OHIM of 4 May 2015 in Case R 1690/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision in so far as it upholds the conclusion of the examiner that the mark applied for is devoid of distinctive character with respect to the goods concerned;

— grant registration of the mark or alternatively refer the trade mark application back to OHIM for further consideration;

— order OHIM to pay the costs.

Pleas in law

— Infringement of Article 7(1) of Regulation No 207/2009/Regulation No 2868/95;

— Infringement of Article 7(3) applied in conjunction with Article 7(1)(b).

Appeal brought on 9 July 2015 by Viara Todorova Androva against the judgment of the Civil Service Tribunal of 29 April 2015 in Case F-78/12, Todorova Androva v Council

(Case T-366/15 P)

(2015/C 337/19)

Language of the case: French

Parties

Appellant: Viara Todorova Androva (Rhode-Saint-Genèse, Belgium) (represented by M. Velardo, lawyer)

Other party to the proceedings: Council of the European Union

Form of order sought by the appellant

— Set aside the judgment of 29 April 2015 in Case F-78/12 and the General Court itself rule in the action;

— In the alternative, refer the case back to the Civil Service Tribunal;

— Order the Council to pay the costs.

Pleas in law and main arguments

In support of the appeal, the appellant relies on four pleas in law.

1. First plea in law, alleging an error of law, since the Civil Service Tribunal ('the CST') took the view that Article 45 of the Staff Regulations of Officials of the European Union did not permit account to be taken, for the purposes of entry on the list of promotable officials, the seniority acquired as a member of the temporary staff.

2. Second plea in law, alleging an error of law committed by the CST in that it held that the case was not covered by the case-law of the Court of Justice in the judgment of 8 September 2011 in *Rosado Santana* (C-177/10, ECR, EU:C:2011:557), but by that in the order of 7 March 2013 in *Rivas Montes* (C-178/12, EU:C:2013:150).

3. Third plea in law, alleging an error of law, since the CST took the view that the plea alleging an infringement of the principle of equal treatment was inadmissible since it did not state the exact names of the candidates promoted in the place of the applicant.

4. Fourth plea in law, alleging an error of law committed by the CST in that it held that the plea alleging infringement of the duty of care was inadmissible since there were discrepancies between the claim and the application.

Action brought on 10 July 2015 — Ja zum Nürburgring v Commission

(Case T-373/15)

(2015/C 337/20)

Language of the case: German

Parties

Applicant: Ja zum Nürburgring e.V. (Nürburg, Germany) (represented by: D. Frey, M. Rudolph and S. Eggerath, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul in part Commission Decision C(2014) 3634 final of 1 October 2014 on the State aid SA.31550 granted by Germany to the Nürburgring;

— order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on 9 pleas in law.

1. First plea in law, alleging incorrect findings of the relevant facts of the case

   The applicant claims that the Commission infringed Article 108 TFEU read in conjunction with Article 107 TFEU and Article 17 TEU in so far as it did not perform its duty under the law on State aid to keep State aid under review and, in its decision, incorrectly represented material aspects of the facts of the case.

2. Second plea in law, alleging a manifest error in the assessment of the confirmation of the financing

   The applicant claims in this regard that the Commission committed a manifest error of assessment in finding that the buyer of the assets sold under the tender process provided a confirmation of the financing from one of the financial partners.

3. Third plea in law, alleging infringement of Article 107 TFEU and Article 108 TFEU, Article 4(4) and Article 14 of Regulation (EC) No 659/1999 ([1]) and manifest errors of assessment

   In connection with the third plea in law, the applicant claims inter alia that the restrictions of competition market-wide caused by the unlawful State aid were perpetuated by the sale of the assets. Furthermore, the obligation to make restitution ought to have extended on the basis of economic continuity to the buyer of the assets sold under the tender process. The applicant adds that the sale constituted new State aid in favour of the buyer.

4. Fourth plea in law, alleging infringement of Article 107 TFEU and Article 108 TFEU and manifest errors of assessment

   In connection with this plea in law, the applicant claims, in essence, that the sale process was not carried out by a transparent and non-discriminatory tender process and that therefore the assets at issue were not sold at market price.

5. Fifth plea in law, alleging infringement of Article 108(2) TFEU and Article 4(4) of Regulation No 659/1999 through negative certification under the law on State aid

   In connection with this plea in law, the applicant claims that the Commission infringed Article 108(2) TFEU and Article 4(4) of Regulation No 659/1999 in so far as it did not classify the assets sold within the course of the tender process as new State aid and did not initiate the formal examination procedure. The applicant adds that the Commission cannot have failed to have had doubts as to the compatibility of that State aid with the internal market.

6. Sixth plea in law, alleging failure to state reasons

   The applicant submits that the Commission infringed its obligation to state reasons pursuant to Article 296(2) TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union in so far as the reasons are either not given or not adequately given for the principal considerations on which the contested decision is based.

7. Seventh plea in law, alleging infringement of the applicant's procedural rights

   In connection with this plea in law, the applicant claims that the Commission infringed its procedural rights by not considering its submissions.

8. Eighth plea in law, alleging that the decision that the sale of assets did not constitute new State aid infringed the applicant's procedural rights

   In connection with this plea in law, the applicant claims that the Commission infringed its procedural rights and, in particular, essential formal requirements in so far as, despite the applicant's formal complaint, it decided that the sale of the assets following the tender process to the buyer was not to be classified as State aid. By its decision, the Commission implicitly declined to initiate the formal investigation procedure.

9. Ninth plea in law, alleging infringement of the right to good administration

   Lastly, the applicant claims that the Commission neither investigated all of the relevant aspects independently nor took the aspects of the case provided by the applicants into consideration in an appropriate manner.

([1]) Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1).

Action brought on 10 July 2015 — Germanwings v Commission

(Case T-375/15)

(2015/C 337/21)

Language of the case: German

Parties

Applicant: Germanwings GmbH (Cologne, Germany) (represented by: A. Martin-Ehlers, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the Commission's decision of 1 October 2014 in Case SA.27339 (2012/C) (ex 2011/NN) — Zweibrücken airport and airlines that use that airport — namely

  — Article 1(2) in so far as it refers to the contract with Germanwings GmbH of 2006 and;

  — Article 3(3)(e);

— annul the Commission's decision of 11 May 2015, GESTDEM 2015/1288;

— order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the first head of claim, the applicant relies, in essence, on five pleas in law.

1. First plea in law, alleging a distortion of the facts in that they were incompletely presented

   The applicant alleges that the defendant's presentation of some parts of the facts of the case were incorrect, contradictory and incomplete.

2. Second plea in law, alleging an error of reasoning

   In this regard, the applicant alleges in particular that the infrastructure expenditure that the Commission attributed to a 2006 contract between the applicant and the operator of Zweibrücken Airport was not itemised.

3. Third plea in law, alleging that no sums were to be recovered from the applicant

   The applicant claims in this regard that the defendant has not undertaken its own review of the attribution of the infrastructure costs at issue. Furthermore, the Commission's attribution of those costs to the contract concluded by the applicant in 2006 was not lawful, since it runs contrary to the Commission's existing decision-making practice and the Commission did not take account of the facts of the case that were publically available. In the alternative, in connection with this plea in law, the applicant claims that the attribution of those costs should have been significantly lower.

4. Fourth plea in law, alleging the Commission's failure to justify the State character of the resources

   In this regard, the applicant claims that the Commission did not explain why the present case concerned State aid.

5. Fifth plea in law, alleging in the alternative infringement of the applicant's legitimate expectations

   Finally, in relation to the first head of claim, the applicant claims in the alternative that any restitution of alleged State aid is precluded by the principle of the protection of legitimate expectations.

   In support of the second head of claim, the applicant claims, in essence, that the Commission did not state adequate reasons for the contested decision and misinterpreted Article 4(2) of Regulation (EC) No 1049/2001 ([1]).

([1]) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 14 July 2015 — IMG v Commission

(Case T-381/15)

(2015/C 337/22)

Language of the case: French

Parties

Applicant: International Management Group (IMG) (Brussels, Belgium) (represented by: L. Levi and A. Tymen, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— annul the Commission's decision of 8 May 2015 strengthening audit and monitoring measures, issuing a verification warning in accordance with the Commission decision of 13 November 2014 on the early warning system to be used by authorising officers of the Commission and by the executive agencies, and denying IMG the status of an international organisation under the Financial Regulation;

— order the defendant to pay for the material and non-material damage incurred;

— order the defendant to pay all the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on eight pleas in law concerning different aspects of the contested decision.

— Regarding the contested decision as a whole

1. First plea in law, alleging infringement of Article 41 of the Charter and the right to a fair hearing.

2. Second plea in law, alleging infringement of the principle of proportionality.

— Regarding the decision denying the applicant the status of an international organisation within the meaning of the Financial Regulation

3. Third plea in law, alleging infringement of Regulation (EU, Euratom) No 966/2012 ([1]) and Delegated Regulation (EU) No 1268/2012 ([2]) and a manifest error of assessment in so far as the Commission decided that the applicant no longer qualified as an international organisation within the meaning of the abovementioned regulations.

4. Fourth plea in law, alleging infringement of the duty to state reasons.

5. Fifth plea in law, alleging infringement of the principle of legal certainty in so far as the Commission does not explain (i) why it considers that the applicant no longer satisfies the requirements of the definition of an international organisation or (ii) the substantial change in its interpretation and application of the Financial Regulation in regard to a factual and legal situation (that of the applicant) which has remained unchanged.

6. Sixth plea in law, alleging infringement of legitimate expectations in so far as the applicant's status as an international organisation was revoked abruptly and without a transitional period.

— Regarding the decision to issue a verification warning in the context of the early warning system (EWS)

7. Seventh plea in law, alleging illegality of Decision 2014/792/EU ([3]) in so far as there is no legal basis for its adoption.

8. Eighth plea in law, put forward in the alternative, alleging infringement of Article 41 of the Charter, of the right to a fair hearing and of the duty to state reasons and a manifest error of assessment.

([1]) Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).
([2]) Commission Delegated Regulation (EU) No 1268/2012 of 29 October 2012 on the rules of application of Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council on the financial rules applicable to the general budget of the Union (OJ 2012 L 362, p. 1).
([3]) Commission Decision 2014/792/EU of 13 November 2014 on the early warning system to be used by authorising officers of the Commission and by the executive agencies (OJ 2014 L 329, p. 68).

Action brought on 15 July 2015 — Greenpeace Energy and Others v Commission

(Case T-382/15)

(2015/C 337/23)

Language of the case: German

Parties

Applicants: Greenpeace Energy eG (Hamburg, Germany), oekostrom AG für Energieerzeugung und -handel (Vienna, Austria), Stadtwerke Aalen GmbH (Aalen, Germany), Stadtwerke Bietigheim-Bissingen GmbH (Bietigheim-Bissingen, Germany), Stadtwerke Schwäbisch Hall GmbH (Schwäbisch Hall, Germany), Stadtwerke Tübingen GmbH (Tübingen, Germany), Stadtwerke Mühlacker GmbH (Mühlacker, Germany), Energieversorgung Filstal GmbH & Co KG (Göppingen, Germany), Stadtwerke Mainz AG (Mainz, Germany), Stadtwerke Bochum Holding GmbH (Bochum, Germany) (represented by: D. Fouquet and J. Nysten, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare the action under paragraphs 4 and 1 of Article 263 TFEU to be admissible and well founded;

— annul Commission Decision (EU) 2015/658 of 8 October 2014 on the aid measure SA.34947 (2013/C) (ex 2013/N) which the United Kingdom is planning to implement for support to the Hinkley Point C nuclear power station;

— order the defendant to pay the entire costs of the proceedings, including legal and travel costs.

Pleas in law and main arguments

In support of the action, the applicants rely on eight pleas in law.

1. First plea in law: Incorrect application of Article 107(3)(c) TFEU, owing to the acceptance of a common interest

   The applicants assert that, in the context of its examination, the Commission mixes the criteria which must be observed pursuant to Article 107(3)(b) and Article 107(3)(c) TFEU and thereby incorrectly applies those provisions. In addition, the Commission finds a common interest in the support for nuclear energy, which does not exist in those circumstances. The Commission also accepts a common interest in the security of supply, which admittedly constitutes one of the objectives of the European Union in the field of energy, in accordance with Article 194 TFEU, but which cannot be met by the construction and operation of the nuclear power station concerned.

2. Second plea in law: Incorrect application of Article 107(3)(c) TFEU, owing to the acceptance of a market failure

   In that regard, it is claimed that the Commission wrongly finds the existence of a market failure resulting from the alleged impossibility of financing the nuclear power station on the financial markets and, in so doing, it also neglects the fact that other nuclear power stations, including those using the same technology, manage without comparable State aid. The applicants submit that the Commission also wrongly claims that a political decision may constitute a market failure.

3. Third plea in law: Incorrect application of Article 107(3)(c) TFEU, owing to the incorrect categorisation of the notified measure 'Contract for Difference' as investment aid — Application of a wrong standard of review

   In the context of the third plea in law, the applicants submit that both operating aid and investment aid as well as the difference between those two instruments are defined sufficiently clearly from a legal point of view. In the applicants' view, the Commission misuses its powers by asserting the equivalence to investment aid and thus creating a new category, and it consequently applies a wrong standard of review.

4. Fourth plea in law: Incorrect application of Article 107(3)(c) TFEU, owing to the acceptance of the appropriateness and incentive effect of the aid package

   The applicants submit in that regard that the Commission did not adequately examine the alternatives to the construction and operation of the nuclear power station with regard to the alleged objective of security of supply. In addition, the Commission examines, in a negligent manner, the question of how an undertaking would have acted without aid. Consequently, the Commission carries out an incorrect and incomplete examination of the appropriateness of the aid package.

5. Fifth plea in law: Incorrect application of Article 107(3)(c) TFEU, owing to the underestimation of the distortions to competition caused by the aid measure and the overestimation of the positive effects of the aid package

   Furthermore, the applicants complain that the Commission wrongly concludes that the distortions to competition must be neglected. The applicants submit that expert opinions demonstrate a more pronounced effect on market prices than what the Commission assumes, with the result that a neglect or misinterpretation of the information should be assumed.

6. Sixth plea in law: Infringement of Article 8 of Directive 2009/72/EC ([1]) or infringement of Directive 2004/17/EC ([2]) and Directive 2004/18/EC ([3]), owing to the approval of the aid package without a call for tenders or an equivalent procedure

   In that regard, it is claimed, in particular, that the Commission erroneously assumed the non-applicability of the rules on public procurement in the present case, contrary to its previous decision-making practice. Its assessment of the facts is thus incorrect, vitiated by misuse of powers, and disregards the similarity with numerous other projects. The Commission also misuses its powers when it equates the United Kingdom Government's call for expressions of interest with a procedure equivalent to a call for tenders.

7. Seventh plea in law: Infringement of the enhanced requirements associated with the obligation to state reasons and infringement of the Code of Good Administrative Behaviour, owing to the lack of justification for the inconsistent action of the Commission

   Within the context of this plea, the applicants assert, in essence, that the Commission contradicts on several occasions its own decision-making practice, without giving convincing reasons for doing so.

8. Eighth plea in law: Infringement of the second paragraph of Article 296 TFEU, Article 41 of the Charter of Fundamental Rights of the European Union and the Code of Good Administrative Behaviour, owing to the general failure to comply with the obligation to state reasons

   In that regard, the applicants complain that the Commission incorrectly describes the methodology of the aid measures, for example by assuming an investment aid rather than an operating aid and by generally mixing the various elements. Furthermore, the Commission does not determine the total amount of the aid measures and does not sufficiently assess a possible accumulation. The applicants take the view that the reasons given for the acceptance of a common interest or of a market failure and the appropriateness of the aid package do not generally satisfy the requirements as to the statement of reasons.

([1]) Directive 2009/72/EC of the European Parliament and of the Council of 13 July 2009 concerning common rules for the internal market in electricity and repealing Directive 2003/54/EC (OJ 2009 L 211, p. 55).

([2]) Directive 2004/17/EC of the European Parliament and of the Council of 31 March 2004 coordinating the procurement procedures of entities operating in the water, energy, transport and postal services sectors (OJ 2004 L 134, p. 1).

([3]) Directive 2004/18/EC of the European Parliament and of the Council of 31 March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts (OJ 2004 L 134, p. 114).

Action brought on 13 July 2015 — EDF Luminus v Parliament

(Case T-384/15)

(2015/C 337/24)

Language of the case: French

Parties

Applicant: EDF Luminus (Brussels, Belgium) (represented by: D. Verhoeven and O. Vanden Berghe, lawyers)

Defendant: European Parliament

Form of order sought

— Declare the action admissible and well founded;

— Consequently, order the European Parliament:

— to pay EDF Luminus the sum of EUR 439 672,95;

— to pay EDF Luminus the contractual interest on that sum from the date on which the invoices were payable;

— to pay the costs and disbursements.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging infringement of the applicable legal and contractual conditions and the principle of equal treatment and non-discrimination, since the Parliament refuses to reimburse the applicant for the contributions relating to the electricity which it paid to the Région de Bruxelles — Capitale. The applicant submits that the disputed contributions must fall to be paid by the Parliament since they were brought about by the supply of electricity to the Parliament.

Action brought on 25 July 2015 — Fulmen v Council

(Case T-405/15)

(2015/C 337/25)

Language of the case: French

Parties

Applicant: Fulmen (Tehran, Iran) (represented by: A. Bahrami and N. Korogiannakis, lawyers)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— declare the application admissible and well founded;

— order the Council to pay the sum of EUR 11 009 560 in respect of material damage and the sum of EUR 100 000 in respect of non-material damage; and

— order the Council to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging serious misconduct on the part of the Council, including misuse of its powers.

The applicant claims that the Council did not have the slightest evidence against it to support the reasons for including the applicant's name on the list of persons and entities subject to restrictive measures against Iran and that the Council used the contested measures in order to harm Iran's industrial capacity and economic development.

Action brought on 26 July 2015 — Mahmoudian v Council

(Case T-406/15)

(2015/C 337/26)

Language of the case: French

Parties

Applicant: Fereydoun Mahmoudian (Tehran, Iran) (represented by: A. Bahrami and N. Korogiannakis, lawyers)

Defendant: Council of the European Union

Form of order sought

— Declare the application admissible and well founded;

— Order the Council to pay the sum of EUR 2 227 000 in respect of material harm and the sum of EUR 600 000 in respect of non-material harm;

— Order the Council to pay the legal costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law which is in essence identical or similar to that raised in Case T-405/15 *Fulmen* v *Council*.

Appeal brought on 28 July 2015 by Jaana Pohjanmäki against the judgment of the Civil Service Tribunal of 18 May 2015 in Case F-44/14, Pohjanmäki v Council

(Case T-410/15 P)

(2015/C 337/27)

Language of the case: French

Parties

Appellant: Jaana Pohjanmäki (Brussels, Belgium) (represented by M. Velardo, lawyer)

Other party to the proceedings: Council of the European Union

Form of order sought by the appellant

The appellant claims that the Court should:

— set aside the judgment of 18 May 2015 in Case F-44/14 and itself give judgment on the case;

— in the alternative, refer the case back to the Civil Service Tribunal;

— order the Council to pay the costs both at first instance and on appeal.

Pleas in law and main arguments

In support of the appeal, the appellant relies on eight pleas in law.

1. First plea in law, alleging an error of law and distortion of the facts and evidence, as well as infringement of the right of the defence, in so far as the assessment of the appellant's merits was not performed carefully and in accordance with the principle of equal treatment.

2. Second plea in law, alleging an error of law and distortion of the facts and evidence, in so far as the members of the Advisory Committee on Promotion were not aware of the appellant's staff reports during the reference period.

3. Third plea in law, alleging an error of law on the part of the Civil Service Tribunal ('CST'), since it considered that the appellant's merits had been compared with those of officials in linguists' roles.

4. Fourth plea in law, alleging an error of law on the part of the CST, since it found that the appointing authority had legitimately reviewed the appellant's situation.

5. Fifth plea in law, alleging infringement of the principle of equality of arms, in so far as certain important aspects of the dispute were not discussed.

6. Sixth plea in law, alleging an error of law, since the CST accepted the defendant's view that the appellant's level of merit was not consistently high.

7. Seventh plea in law, alleging an error of law and distortion of the evidence, since the CST held that the appellant's level of responsibility had been assessed in accordance with Article 45 of the Staff Regulations of Officials of the European Union.

8. Eighth plea in law, alleging an error of law, since the CST held that the defendant had supplemented its statement of reasons at the hearing, when in fact it had substituted its statement of reasons.

Action brought on 28 July 2015 — Cofely Solelec and Others v Parliament

(Case T-419/15)

(2015/C 337/28)

Language of the case: French

Parties

Applicants: Cofely Solelec (Esch-sur-Alzette, Luxembourg), Mannelli & Associés SA (Bertrange, Luxembourg) and Cofely Fabricom (Brussels, Belgium) (represented by: S. Marx, lawyer)

Defendant: European Parliament

Form of order sought

The applicants claim that the Court should:

— annul:

— Decision No D(2015)24297 of 29 May 2015 of the Directorate-General for Infrastructure and Logistics of the European Parliament by which procurement procedure reference number INLO-D-UPIL-T-14-AO4 — lot 75 'electricity — power' concerning the project to extend and modernise the Konrad Adenauer building in Luxembourg was annulled;

— Decision No D(2015)28116 of 11 June 2015 of the Directorate-General for Infrastructure and Logistics of the European Parliament by which procurement procedure reference number INLO-D-UPIL-T-14-AO4 — lot 75 'electricity — power' concerning the project to extend and modernise the Konrad Adenauer building in Luxembourg was annulled;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on two pleas in law.

1. First plea in law, alleging failure to state reasons, in so far as the defendant merely justified the annulment decisions of 29 May 2015 and 11 June 2015 on the ground that the other offers received, including the applicants', significantly exceeded the estimate of the market value previously used as a basis by the contracting authority, without specifying that value in those decisions. The defendant indicated that estimated amount only in a later letter of 18 June 2015.

2. Second plea in law, put forward in the alternative, alleging a manifest error of assessment. The applicants argue that the defendant's estimate of the market value does not correspond to the reality of the market and is vitiated by a manifest undervaluation.

Action brought on 20 July 2015 — Thun 1794 v OHIM — Adekor (graphical symbols)

(Case T-420/15)

(2015/C 337/29)

Language in which the application was lodged: Czech

Parties

Applicant: Thun 1794 a.s. (Nová Role, Czech Republic) (represented by: F. Steidl, lawyer)

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

Other party to the proceedings before the Board of Appeal: Adekor s.r.o. (Loket, Czech Republic)

Details of the proceedings before OHIM

Proprietor of the design at issue: Other party to the proceedings before the Board of Appeal

Design at issue: Community design No 000840400-0001

Contested decision: Decision of the Third Board of Appeal of OHIM of 29 April 2015 in Case R 1465/2014-3

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

— Infringement of essential procedural rules;

— Infringement of Article 25(1) of Regulation (EC) No 6/2002;

— Misuse of powers.

Action brought on 29 July 2015 — Systran v Commission

(Case T-421/15)

(2015/C 337/30)

Language of the case: French

Parties

Applicant: Systran SA (Paris, France) (represented by: J. Hoss, E. Omes and P. Hoffmann, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— join the present case with Case T-481/13;

— annul the decision of 25 June 2015 taken by the European Commission, alternatively, by the European Union;

— order the European Commission and the European Union to pay all the costs.

Pleas in law and main arguments

By the present action, the applicant seeks the annulment of the Commission decision by which, following the judgment of the Court of Justice of 18 April 2013 in *Commission* v *Systran and Systran Luxembourg* (C-103/11 P, ECR, EU:C:2013:245), it orders the recovery of compensatory interest, plus interest on late payment from 19 August 2013, on the amount that the Commission had paid to the applicant by way of damages following the judgment of the General Court of 16 December 2010 in *Systran and Systran Luxembourg* v *Commission* (T-19/07, ECR, EU:T:2010:526), annulled by the judgment of the Court of Justice.

In support of the action, the applicant relies on three pleas in law, which are essentially identical or similar to those relied on in the context of Case T-481/13, *Systran* v *Commission* ([1]).

([1]) OJ 2013, C 336, p. 27.

Action brought on 30 July 2015 — Port Autonome du Centre et de l'Ouest and Others v Commission

(Case T-438/15)

(2015/C 337/31)

Language of the case: French

Parties

Applicants: Port Autonome du Centre et de l'Ouest SCRL (La Louvière, Belgium), Port Autonome de Namur (Namur, Belgium), Port Autonome de Charleroi (Charleroi, Belgium) and Région wallonne (represented by: J. Vanden Eynde, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare the application admissible on the part of each of the applicants and consequently annul the Commission decision reference SA.38393(2014/CP) — taxation of ports in Belgium;

— declare the present action admissible and well-founded;

— consequently, annul the decision of the Commission to regard as State aid incompatible with the internal market the fact that the economic activities of Belgian ports, and in particular Walloon ports, are not subjected to corporate tax;

— order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on six pleas in law.

1. First plea in law, alleging, generally, that the Commission's assertions are neither supported by the facts nor justified in law.

2. Second plea in law, alleging that the assertion that the taxation system at issue constitutes corporation tax is not justified in law.

3. Third plea in law, alleging that the Commission neglected to take into account Member States' prerogatives over:

   — the definition of non-economic activities;

   — the definition of direct taxation;

   — the obligation to ensure the proper functioning of services of general interest necessary for social and economic cohesion;

   — the discretionary organisation of services in the public interest.

4. Fourth plea in law, alleging that the essential activities of the Walloon ports are services of public interest that are not governed, in accordance with European legislation (Articles 93 and 106(2) TFEU), by the competition rules laid down by Article 107 TFEU.

5. Fifth plea in law, put forward in the alternative, alleging that if the essential activities of the inland Walloon ports fall within the scope of services of general economic interest, they are governed by the rules of Articles 93 and 106(2) TFEU and that the competition rules are not applicable to them.

6. Sixth plea in law, put forward in the further alternative, alleging that the European criteria for the definition of State aid are not met.

Action brought on 29 July 2015 — European Dynamics Luxembourg and Others v European Medicines Agency

(Case T-440/15)

(2015/C 337/32)

Language of the case: Greek

Parties

Applicants: European Dynamics Luxembourg SA (Luxembourg, Luxembourg), Evropaiki Dinamiki — Proigmena Sistimata Tilepikinonion Pliroforikis kai Tilematikis AE (Athens, Greece), European Dynamics Belgium SA (Brussels, Belgium) (represented by: I. Ambazis and M. Sfyri, lawyers)

Defendant: European Medicines Agency

Form of order sought

The applicants claim that the General Court should:

— annul the Request Form for Services of the European Medicines Agency No SC002, in the context of the EMA/2012/10/ICT framework-agreement, which was communicated to the applicants on 22/05/2015, by means of an e-mail from the Head of the Central Sourcing Unit; and

— order the European Medicines Agency to pay all the costs of the applicants.

Pleas in law and main arguments

In the opinion of the applicants, the contested Request Form for Services should be annulled under Article 263 TFEU, because the EMA altered the award criteria which were set out in the Technical Specifications, and introduced new criteria at the stage of sending a request form for the services of business analysts.

Action brought on 11 August 2015 — Almashreq Investment Fund v Council

(Case T-463/15)

(2015/C 337/33)

Language of the case: French

Parties

Applicant: Almashreq Investment Fund (Damascus, Syria) (represented by: E. Ruchat, lawyer)

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;

— Consequently, annul Decision (CFSP) 2015/837 of 28 May 2015 and the subsequent measures implementing it, in so far as they relate to 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 raises three pleas in law which are, in essence, identical or similar to those raised in Case T-432/11 in *Makhlouf* v *Council* ([1]).

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

Action brought on 11 August 2015 — Othman v Council

(Case T-464/15)

(2015/C 337/34)

Language of the case: French

Parties

Applicant: Razan Othman (Damascus, Syria) (represented by: E. Ruchat, lawyer)

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;

— Consequently, annul Decision (CFSP) 2015/837 of 28 May 2015 and the subsequent measures implementing it, in so far as they relate to 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 raises three pleas in law which are, in essence, identical or similar to those raised in Case T-432/11 in *Makhlouf* v *Council* ([1]).

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

Action brought on 11 August 2015 — Makhlouf v Council

(Case T-465/15)

(2015/C 337/35)

Language of the case: French

Parties

Applicant: Ehab Makhlouf (Damascus, Syria) (represented by: E. Ruchat, lawyer)

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;

— Consequently, annul Decision (CFSP) 2015/837 of 28 May 2015 and the subsequent measures implementing it, in so far as they relate to 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 raises three pleas in law which are, in essence, identical or similar to those raised in Case T-432/11 in *Makhlouf* v *Council* ([1]).

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

Action brought on 11 August 2015 — Makhlouf v Council

(Case T-466/15)

(2015/C 337/36)

Language of the case: French

Parties

Applicant: Rami Makhlouf (Damascus, Syria) (represented by: E. Ruchat, lawyer)

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;

— Consequently, annul Decision (CFSP) 2015/837 of 28 May 2015 and the subsequent measures implementing it, in so far as they relate to 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 raises three pleas in law which are, in essence, identical or similar to those raised in Case T-432/11 in *Makhlouf* v *Council* ([1]).

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

Action brought on 11 August 2015 — Drex Technologies v Council

(Case T-467/15)

(2015/C 337/37)

Language of the case: French

Parties

Applicant: Drex Technologies SA (Tortola, British Virgin Islands) (represented by: E. Ruchat, lawyer)

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;

— Consequently, annul Decision (CFSP) 2015/837 of 28 May 2015 and the subsequent measures implementing it, in so far as they relate to 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 raises three pleas in law which are, in essence, identical or similar to those raised in Case T-432/11 in *Makhlouf* v *Council* ([1]).

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

Action brought on 11 August 2015 — Souruh v Council

(Case T-468/15)

(2015/C 337/38)

Language of the case: French

Parties

Applicant: Souruh SA (Damascus, Syria) (represented by: E. Ruchat, lawyer)

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;

— Consequently, annul Decision (CFSP) 2015/837 of 28 May 2015 and the subsequent measures implementing it, in so far as they relate to 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 raises three pleas in law which are, in essence, identical or similar to those raised in Case T-432/11 in *Makhlouf* v *Council* ([1]).

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

Action brought on 11 August 2015 — Bena Properties v Council

(Case T-469/15)

(2015/C 337/39)

Language of the case: French

Parties

Applicant: Bena Properties Co. SA (Damascus, Syria) (represented by: E. Ruchat, lawyer)

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;

— Consequently, annul Decision (CFSP) 2015/837 of 28 May 2015 and the subsequent measures implementing it, in so far as they relate to 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 raises three pleas in law which are, in essence, identical or similar to those raised in Case T-432/11 in *Makhlouf* v *Council* ([1]).

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

Action brought on 11 August 2015 — Cham v Council

(Case T-470/15)

(2015/C 337/40)

Language of the case: French

Parties

Applicant: Cham Holding (Damascus, Syria) (represented by: E. Ruchat, lawyer)

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;

— Consequently, annul Decision (CFSP) 2015/837 of 28 May 2015 and the subsequent measures implementing it, in so far as they relate to 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 raises three pleas in law which are, in essence, identical or similar to those raised in Case T-432/11 in *Makhlouf* v *Council* ([1]).

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

Action brought on 11 August 2015 — Syriatel Mobile Telecom v Council

(Case T-471/15)

(2015/C 337/41)

Language of the case: French

Parties

Applicant: Syriatel Mobile Telecom (Joint Stock Company) (Damascus, Syria) (represented by: E. Ruchat, lawyer)

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;

— Consequently, annul Decision (CFSP) 2015/837 of 28 May 2015 and the subsequent measures implementing it, in so far as they relate to 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 raises three pleas in law which are, in essence, identical or similar to those raised in Case T-432/11 in *Makhlouf* v *Council* ([1]).

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

Action brought on 19 August 2015 — European Food v OHIM — Société des Produits Nestlé (FITNESS)

(Case T-476/15)

(2015/C 337/42)

Language in which the application was lodged: English

Parties

Applicant: European Food SA (Drăgăneşti, Romania) (represented by: I. Speciac, lawyer)

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

Other party to the proceedings before the Board of Appeal: Société des Produits Nestlé SA (Vevey, Switzerland)

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community word mark 'FITNESS' — Community trade mark No 2 470 326

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fourth Board of Appeal of OHIM of 19 June 2015 in Case R 2542/2013-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and remit the case to the Office in order to issue a decision in compliance with the Court's ruling;

— as a subsidiary, alter the contested decision and cancel CTM Fitness no 2470326;

— order OHIM to pay the costs generated by the current proceedings.

Pleas in law

— Infringement of rule 37(b)(vi), rule 50(1) of Regulation No 2868/95 and Article 76 of Regulation No 207/2009;

— Infringement of Article 7(1)(b) and Article 52(1)(a) of Regulation No 207/2009;

— Infringement of Article 7(1)(c) and Article 52(1)(a) of Regulation No 207/2009.

Action brought on 20 August 2015 — Lotte v OHIM — Kuchenmeister (KOALA LAND)

(Case T-479/15)

(2015/C 337/43)

Language in which the application was lodged: German

Parties

Applicant: Lotte Co. Ltd (Tokyo, Japan) (represented by: M. Knitter and S. Schicker, lawyers)

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

Other party to the proceedings before the Board of Appeal: Kuchenmeister GmbH (Soest, Germany)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community word mark 'KOALA LAND' — Application for registration No 10 766 723

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 4 June 2015 in Case R 815/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision, notified to the applicant on 23 June 2015, concerning the application for registration of Community trademark No 10 766 723 'KOALA LAND';

— order OHIM to pay the costs of the present proceedings.

Pleas in law

— Infringement of Article 42(2) and (3) of Regulation No 207/2009;

— Infringement of Article 15(1)(a) of Regulation No 207/2009;

— Infringement of Rule 22(3) of Regulation No 2868/95;

— Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 19 August 2015 — KZ and Others v Commission

(Case T-480/15)

(2015/C 337/44)

Language of the case: Polish

Parties

Applicants: KZ (Poland), LA (Poland), LB (Austria), LC (Austria) (represented by: S. Dudzik, legal adviser, and J. Budzik, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— annul European Commission Decision C(2015) 4284 final of 19 June 2015 in Case AT.39864 — BASF, rejecting the applicants' complaint on the basis of Article 7(2) of Regulation No 772/2004 ([1]);

— order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of their action, the applicants put forward two pleas in law.

1. First plea in law: infringement of the principle of effective legal protection and of the right to an effective judicial remedy

   — By rejecting the applicants' complaint on the basis of Article 7(2) of Commission Regulation (EC) No 773/2004 in a situation resulting in a breach of Articles 101 TFEU and 102 TFEU, to the detriment of the applicants — even though the competent national body for the protection of competition was unable to institute proceedings on the ground that the period provided for under national law for instituting proceedings relating to a breach of competition law had expired, and the applicants also did not have the possibility effectively to seek compensation by bringing an action before a national court — the Commission infringed the applicants' rights to effective legal protection and to an effective judicial remedy.

2. Second plea in law: breach of Articles 101 TFEU and 102 TFEU, in conjunction with the second sentence of Article 17 (1) of the Treaty on European Union, Article 7(2) of Regulation No 773/2004 and Article 7(1) and (2) of Council Regulation (EC) No 1/2003 ([2])

   — By proceeding on the assumption that the interest of the European Union does not justify the bringing of proceedings on the basis of the applicants' complaint, the Commission committed a manifest error of assessment;

   — By rejecting the applicants' complaint and refusing to bring proceedings on the basis of the unfounded assumption that the conditions governing the finding of a breach of Article 101 TFEU set out in the judgment of the Court of 17 July 1998 in Case T-111/96 *ITT Promedia* v. *Commission* are not applicable in the case of abuse of criminal or administrative procedure, the Commission infringed the principle of effectiveness (*effet utile*) in Articles 101 TFEU and 102 TFEU.

([1]) Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the Treaty (OJ 2004 L 123, p. 18).

([2]) 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).

Action brought on 24 August 2015 — Ahrend Furniture v Commission

(Case T-482/15)

(2015/C 337/45)

Language of the case: French

Parties

Applicant: Ahrend Furniture (Zaventem, Belgium) (represented by: A. Lepièce, V. Dor and S. Engelen, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— order the annulment of the decision of the Commission of unknown date awarding lot 1 of call for tender OIB.DR.2/PO/2014/055/622 — 'Supply of furniture' to another tenderer;

— order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant made errors of fact and of law during the qualitative and technical analysis of the applicant's tender.

2. Second plea in law, alleging that the applicant was not informed, despite requests for same, of particulars relating to the financial evaluation of the tenders.

Action brought on 24 August 2015 — Alsharghawi v Council

(Case T-485/15)

(2015/C 337/46)

Language of the case: French

Parties

Applicant: Bashir Saleh Bashir Alsharghawi (Johannesburg, South Africa) (represented by: É. Moutet, lawyer)

Defendant: Council of the European Union

Form of order sought

The applicant claims that the Court should:

— annul Council Decision 2015/1333/CFSP of 31 July 2015 concerning restrictive measures in view of the situation in Libya, and repealing Decision 2011/137/CFSP, and Council Implementing Regulation (EU) 2015/1323 of 31 July 2015 implementing Article 16(2) of Regulation (EU) No 204/2011 concerning restrictive measures in view of the situation in Libya;

— order the Council to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the Council does not have the competence to list the applicant on the list of persons subject to restrictive measures, his name being mentioned neither in United Nations Security Council Resolutions 1970 (2011) and 1973 (2011) nor in its amending Resolutions 2213 (2015) and 2214 (2015).

2. Second plea in law, alleging infringement of essential procedural requirements, divided into two parts:

   — breach of the obligation to state reasons;

   — breach of the applicant's rights of the defence on account of the lack of adversary proceedings.

3. Third plea in law, alleging infringement of rules of law relating to the application of the EU Treaties, divided into two parts:

   — breach of the presumption of innocence;

   — breach of fundamental rights, to the extent that, by imposing restrictive measures on the applicant, the Council undermined his freedom to come and go and his property rights.

4. Fourth plea in law, alleging that the contested acts are without merit, to the extent that there is no solid factual basis establishing their relevance.

Action brought on 26 August 2015 — LG Electronics v OHIM — Cyrus Wellness Consulting (VIEWTY SMART)

(Case T-488/15)

(2015/C 337/47)

Language in which the application was lodged: English

Parties

Applicant: LG Electronics, Inc. (Seoul, Republic of Korea) (represented by: M. Graf, lawyer)

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

Other party to the proceedings before the Board of Appeal: Cyrus Wellness Consulting (Berlin, Germany)

Details of the proceedings before OHIM

Applicant of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'VIEWTY SMART' — Application for Registration No 8 431 091

Procedure before OHIM:Opposition proceedings

Contested decision:Decision of the Second Board of Appeal of OHIM of 11 June 2015 in Case R 1734/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

— Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 26 August 2015 — LG Electronics v OHMI — Cyrus Wellness Consulting (VIEWTY SNAP)

(Case T-489/15)

(2015/C 337/48)

Language in which the application was lodged: English

Parties

Applicant: LG Electronics, Inc. (Seoul, Republic of Korea) (represented by: M. Graf, lawyer)

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

Other party to the proceedings before the Board of Appeal: Cyrus Wellness Consulting (Berlin, Germany)

Details of the proceedings before OHIM

Applicant of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'VIEWTY SNAP' — Application for Registration No 9 125 055

Procedure before OHIM:Opposition proceedings

Contested decision:Decision of the Second Board of Appeal of OHIM of 12 June 2015 in Case R 1938/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

— Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 21 August 2015 — SGP Rechtsanwälte v OHIM — Verlag Friedrich Oetinger (tolino)

(Case T-490/15)

(2015/C 337/49)

Language in which the application was lodged: German

Parties

Applicant: SGP Rechtsanwälte Hero, Langbein, Zwecker PartGmbB (Munich, Germany) (represented by: K. Köklü, lawyer)

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

Other party to the proceedings before the Board of Appeal: Verlag Friedrich Oetinger GmbH (Hamburg, Germany)

Details of the proceedings before OHIM

Applicant of the trade mark at issue: The applicant

Trade mark at issue: Community word mark 'tolino' — Application for registration No 11 651 288

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of OHIM of 11 June 2015 in Case R 2042/2014-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

— Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 25 August 2015 — Volkswagen v OHIM (ConnectedWork)

(Case T-491/15)

(2015/C 337/50)

Language of the case: German

Parties

Applicant: Volkswagen AG (Wolfsburg, Germany) (Represented by: U. Sander, lawyer)

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

Details of the proceedings before OHIM

Trade mark at issue: Community word mark 'ConnectedWork' — Application for registration No 13 011 267

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 29 June 2015 in Case R 160/2015-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Pleas in law

— Infringement of Article 7(1)(b) read in conjunction with Article 7(2) of Regulation No 207/2009;

— Infringement of Article 75 of Regulation No 207/2009.

Action brought on 31 August 2015 — LG Electronics v OHIM — Cyrus Wellness Consulting (Viewty)

(Case T-498/15)

(2015/C 337/51)

Language in which the application was lodged: English

Parties

Applicant: LG Electronics, Inc. (Seoul, Republic of Korea) (represented by: M. Graf, lawyer)

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

Other party to the proceedings before the Board of Appeal: Cyrus Wellness Consulting GmbH (Berlin, Germany)

Details of the proceedings before OHIM

Applicant of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'Viewty' — Application for registration No 6 266 531

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 15 June 2015 in Joined Cases R 1935/2014-2 and R 1563/2014-2

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order OHIM to pay the costs.

Plea in law

— Infringement of Article 8(1)(b) of Regulation No 207/2009.

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