

**Judgment of the Court of First Instance of 31 March 2009  
— ArcelorMittal Luxembourg and Others v Commission**

(Case T-405/06) <sup>(1)</sup>

*(Competition — Agreements, decisions and concerted practices — Community market in beams — Decision establishing an infringement of Article 65 CS, after expiry of the ECSC Treaty on the basis of Regulation (EC) No 1/2003 — Competence of the Commission — Liability for the infringement — Limitation — Rights of the defence)*

(2009/C 113/66)

Language of the case: French

**Parties**

*Applicants:* ArcelorMittal Luxembourg SA, formerly Arcelor Luxembourg SA (Luxembourg, Luxembourg); ArcelorMittal Belval & Differdange SA, formerly Arcelor Profil Luxembourg SA (Esch-sur-Alzette, Luxembourg); and ArcelorMittel International SA, formerly Arcelor International SA (Luxembourg) (represented by: A. Vandencastele, lawyer)

*Defendants:* Commission of the European Communities (represented by: X. Lewis and F. Arbault, Agents)

**Re:**

Annulment of Commission Decision C(2006) 5342 final of 8 November 2006 relating to a proceeding under Article 65 [CS] concerning agreements and concerted practices engaged in by European producers of beams (Case COMP/F/38.907 — Steel beams).

**Operative part of the judgment**

The Court:

1. Annuls Commission Decision C(2006) 5342 final of 8 November 2006 relating to a proceeding under Article 65 [CS] concerning agreements and concerted practices engaged in by European producers of beams (Case COMP/F/38.907 — Steel beams) inasmuch as it concerns ArcelorMittal Belval & Differdange SA and ArcelorMittel International SA;
2. Dismisses the action as unfounded as to the remainder;
3. Orders, in so far as the present case is between them, the Commission to pay, in addition its own expenses, the costs incurred by ArcelorMittal Belval & Differdange and ArcelorMittel International;
4. Orders, in so far as the present case is between them, ArcelorMittal Luxembourg SA to pay, in addition to its own costs, the costs incurred by the Commission.

<sup>(1)</sup> OJ C 42, 24.2.2007.

**Judgment of the Court of First Instance of 25 March 2009  
— L'Oréal v OHIM — Spa Monopole (SPALINE)**

(Case T-21/07) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for the Community word mark SPALINE — Earlier national word mark SPA — Relative ground for refusal — Damage to reputation — Unfair advantage derived from the reputation of the earlier mark — Use of the mark applied for without due cause — Article 8(5) of Regulation (EC) No 40/94)*

(2009/C 113/67)

Language of the case: English

**Parties**

*Applicant:* L'Oréal SA (Paris, France) (represented by: E. Baud, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM, intervening before the Court of First Instance:* Spa Monopole, compagnie fermière de Spa SA/NV (Spa, Belgium) (represented by: E. Cornu, L. De Brouwer, D. Moreau and E. De Gryse, lawyers)

**Re:**

Action brought against the decision of the First Board of Appeal of OHIM of 18 October 2006 (Case R 415/2005-1), concerning opposition proceedings between Spa Monopole, compagnie fermière de Spa SA/NV and L'Oréal SA.

**Operative part of the judgment**

The Court:

1. Dismisses the action;
2. Orders L'Oréal SA to pay the costs.

<sup>(1)</sup> OJ C 69, 24.3.2007.

**Judgment of the Court of First Instance of 25 March 2009  
— L'Oréal v OHIM — Spa Monopole (SPA THERAPY)**

(Case T-109/07) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for the Community word mark SPA THERAPY — Earlier national word mark SPA — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)*

(2009/C 113/68)

Language of the case: French

**Parties**

*Applicant:* L'Oréal SA (Paris, France) (represented by: E. Baud, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM, intervening before the Court of First Instance:* Spa Monopole, compagnie fermière de Spa SA/NV (Spa, Belgium) (represented by: E. Cornu, L. De Brouwer and D. Moreau, lawyers)

#### Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 24 January 2007 (Case R 468/2005-4), concerning opposition proceedings between Spa Monopole, compagnie fermière de Spa SA/NV and L'Oréal SA.

#### Operative part of the judgment

*The Court:*

1. Dismisses the action;
2. Orders L'Oréal SA to pay the costs.

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<sup>(1)</sup> OJ C 140, 23.6.2007.

#### Judgment of the Court of First Instance of 25 March 2009 — Anheuser-Busch v OHIM — Budějovický Budvar (BUDWEISER)

(Case T-191/07) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for Community word mark BUDWEISER — Earlier international word and figurative marks BUDWEISER and Budweiser Budvar — Relative grounds for refusal — Article 8(1)(a) and (b) of Regulation (EC) No 40/94 — Genuine use of the earlier trade mark — Article 43(2) and (3) of Regulation No 40/94 — Infringement of rights of defence — Statement of reasons — Article 73 of Regulation No 40/94 — Late submission of documents — Discretion granted by Article 74(2) of Regulation No 40/94)*

(2009/C 113/69)

*Language of the case:* English

#### Parties

*Applicant:* Anheuser-Busch, Inc. (Saint Louis, Missouri, United States) (represented by: V. von Bomhard and A. Renck, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM, intervening before the Court of First Instance:* Budějovický Budvar, národní podnik (České Budějovice, Czech Republic) (represented by: K. Čermák, lawyer)

#### Re:

Action brought against the decision of the Second Board of Appeal of OHIM of 20 March 2007 (Case R 299/2006-2) relating to opposition proceedings between Budějovický Budvar, národní podnik and Anheuser-Busch, Inc.

#### Operative part of the judgment

*The Court:*

1. Dismisses the action;
2. Orders Anheuser-Busch, Inc. to bear, in addition to its own costs, the costs of OHIM and Budějovický Budvar, národní podnik.

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<sup>(1)</sup> OJ C 183, 4.8.2007.

#### Judgment of the Court of First Instance of 25 March 2009 — allsafe Jungfalk v OHIM (ALLSAFE)

(Case T-343/07) <sup>(1)</sup>

*(Community trade mark — Application for the Community word mark ALLSAFE — Absolute grounds for refusal of registration — Absence of distinctive character — Descriptive character — Article 7(1)(b) and (c) of Regulation (EC) No 40/94)*

(2009/C 113/70)

*Language of the case:* German

#### Parties

*Applicant:* allsafe Jungfalk GmbH & Co. KG (Engen, Germany) (represented by: P. Mes, J. Bühling, C. Graf von der Groeben, G. Rother, A. Verhauwen, J. Künzel, D. Jestaedt and M. Bergermann, lawyers)

*Defendants:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: S. Schäffner, Agent)

#### Re:

Action brought against the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 11 July 2007 (Case R 454/2006-4) concerning the registration of the word sign ALLSAFE as a community trade mark.

#### Operative part of the judgment

*The Court:*

1. Dismisses the action;
2. Orders allsafe Jungfalk GmbH & Co. KG to pay the costs.

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<sup>(1)</sup> OJ C 269, 10.11.2007.