

Details of the proceedings before OHIM

Trade mark at issue: Three-dimensional Community trade mark (Shape of a container) — Application for registration No 12 649 174

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 20 April 2015 in Case R 2567/2014-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order the defendant to resume the registration procedure;
- in the alternative, declare that Article 7(1)(b) of Regulation No 207/2009 does not preclude the registration and refer the case back to the Board of Appeal;
- order OHIM to pay the costs.

Plea in law

- Infringement of Article 7(1)(b) of Regulation No 207/2009.

Action brought on 29 June 2015 — DEI v Commission

(Case T-352/15)

(2015/C 328/09)

Language of the case: Greek

Parties

Applicant: Dimosia Epikhirisi Ilektrismou SA (DEI) (Athens, Greece) (represented by: E. Bourtzalas, D. Waelbroeck, K. Tagaras, K. Sinodinos, and E. Salaka, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- annul the decision (C(2015)1942 final) of 25 March 2015 of the European Commission in Case SA.38101, in so far as that decision finds that State aid was not granted to Aluminium SA and, consequently, the Commission should not open the formal investigation procedure provided for by Article 108(2) TFEU;
- annul the decision (C(2015)1942 final) of 25 March 2015 of the European Commission in Case SA.34991, in so far as that decision finds that DEI's complaint concerning State Aid which was created by means of Decision 346/2012 of the Greek Regulatory Authority for Energy (RAE), has become without object as a result of Decision 1/2013 of the Arbitration Tribunal, and
- order the European Commission to pay the costs.

Pleas in law and main arguments

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

1. The first plea in law is a claim of an infringement of an essential procedural requirement, in that the contested act does not satisfy the procedural requirements which are necessary for the adoption of such a decision.

2. The second plea in law is a claim of absence of a sufficient statement of reasons, contradiction and breach of the obligation to examine all relevant matters of fact and law with respect to the finding that the Arbitration Agreement set 'clear and objective parameters' which 'limited the discretion of the arbitrators' and had as a 'logical consequence' the finally determined electricity tariff.
3. The third plea in law is a claim of a manifest error of law in the interpretation and application of the principle of the prudent private investor and of Article 107(1) and Article 108(2) TFEU, as concerns the finding that the electricity tariff determined by the decision of the Arbitration Tribunal is 'the logical consequence of properly defined parameters in the Arbitration Agreement'.
4. The fourth plea in law is a claim of a manifest error of law in the interpretation and application of Articles 107 and 108 TFEU with respect to the finding that the Commission did not have to engage in complex economic assessments and a manifest error of law and a manifest error of assessment of the factual circumstances in so far as the Commission failed to examine crucial issues with respect to finding whether or not there was State Aid.
5. The fifth plea in law is a claim of a manifest error of law in the application of Article 107(1) and Article 108(2) TFEU, and a manifest error of assessment of the factual circumstances as concerns the application of the test of the prudent private market economy operator.
6. The sixth plea in law is a claim of a manifest error of law in the interpretation and application of Article 107(1) TFEU, infringement of the obligation to state sufficient reasons and a manifest error of assessment of the factual circumstances as regards the decision by the Commission not to further investigate the complaint made by DEI in 2012 pursuant to Article 108(2) TFEU, on the basis of the finding that that complaint 'has become without object' following the delivery of Decision 1/2013 of the Arbitration Tribunal.

Action brought on 2 July 2015 — Allergopharma v Commission

(Case T-354/15)

(2015/C 328/10)

Language of the case: German

Parties

Applicant: Allergopharma GmbH & Co. KG (Reinbek, Germany) (represented by: T. Müller-Ibold and F.-C. Laprévotte, lawyers)

Defendant: European Commission

Form of order sought

- Annul the Commission's decision of 27 March 2015 authorising an aid scheme for German pharmaceutical companies in financial difficulties through the exemptions from mandatory rebates (SA.34881 (2013/C) (ex 2013/NN) (ex 2012/CP));
- Order the European Commission 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 errors of law, infringement of the Treaty and breach of the principles of non-discrimination and protection of legitimate expectations in consequence of the failure to have regard to the rescuing and restructuring guidelines ⁽¹⁾