

— order Mr Alexander Gugler to bear the applicants costs in relation to the present proceeding.

Pleas in law and main arguments

The applicant alleges infringement of article 8 (4) of the EUTMR and consequently article L711-4 of the French Code of Intellectual Property by failing to establish the existence of an economic link originating from the owner of the earlier right (the applicant) and towards the applicant of the contested mark (the defendant) and, also, the possible absence of a likelihood of confusion.

Appeal brought on 27 November 2018 by OPS Újpesti Csökkentmunkaképességűek Ipari és Kereskedelmi Kft. (OPS Újpest Kft.) against the order of the General Court (Seventh Chamber) delivered on 28 September 2018 in Case T-708/17 OPS Újpest v Commission

(Case C-741/18 P)

(2019/C 112/18)

Language of the case: Hungarian

Parties

Appellant: OPS Újpesti Csökkentmunkaképességűek Ipari és Kereskedelmi Kft. (OPS Újpest Kft.) (represented by: L. Szabó, ügyvéd)

Other party to the proceedings: European Commission

Form of order sought

In its appeal, OPS Újpest Kft. submits that the Court of Justice should:

- Declare the appeal admissible and well-founded and, accordingly, set aside the order of the General Court (Seventh Chamber) delivered on 28 September 2018 in Case T-708/17 *OPS Újpest v Commission*, and notified to the appellant on 2 October 2018;
- Furthermore, refer the case back to the General Court so that it may rule on the second, third and fourth grounds of inadmissibility raised;
- Moreover, order the European Commission to pay the costs of the proceedings at first instance and on appeal, unless the case is referred back to the General Court, in which case the appellant requests that no ruling be given on the abovementioned costs, but rather that they be reserved for the final judgment.

Grounds of appeal and main arguments

1. First ground of appeal

The appellant submits that the principle of legal certainty requires that interested persons know precisely the scope of the obligations under the legislation to which they are subject, which is guaranteed where the legislation concerned has been duly published in the official language of the intended recipient.

In the case of a legal act which has not been duly published, the procedural time-limits relating to notification can begin to run only from the date on which the first notification is properly issued.

2. Second ground of appeal

Inasmuch as the Commission claimed in the proceedings at first instance that the application was inadmissible as the decisions in respect of which annulment was sought were not final, since the investigation was ongoing, a judicial decision in that regard must come before any decision on the other questions concerning admissibility.
