Form of order sought

— declare that the present application and the annexes thereto are admissible;

— annul the decision of the Board of Appeal (points 1, 2 and 3 of the operative part) in so far as it annuls the contested decision, rejects the application for registration in respect of all the goods in question and orders the applicant to pay the costs incurred by the opposing party in the opposition proceedings and the appeal;

— order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Calzaturificio Frau

Community trade mark concerned: The figurative mark consisting of a black arch sloping to the right (application for registration No 3.388.097) for goods in Classes 18 and 25.

Proprietor of the mark or sign cited in the opposition proceedings: Camper S.L.

Mark or sign cited in opposition: Spanish national three-dimensional trade mark in the form of a shoe for goods in Class 25, a number of English national figurative trade marks representing, in various forms, sloping arches for goods in Class 25 and two figurative Community trade marks also in the shape of an arch for goods in Class 18.

Decision of the Opposition Division: partial rejection of the opposition.

Decision of the Board of Appeal: annulment of the contested decision and refusal of the application for registration.

Pleas in law: Infringement of Article 8(1)(b) of Regulation (EC) No 40/94 on the Community trade mark and of Article 73 of that regulation.

Action brought on 14 August 2007 — Hansgrohe v OHIM (AIRSHOWER)

(Case T-307/07)

(2007/C 235/44)

Language of the case: German

Parties

Applicant: Hansgrohe AG (Schiltach, Germany) (represented by S. Weidert and J. Zehnsdorf, lawyers)

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

Form of order sought

— Annul the decision of the Office for Harmonisation in the Internal Market of 31 May 2007 in Appeal No R 1281/2006-1 concerning trade mark Application No 4 869 319;

— Order the Office for Harmonisation in the Internal Market to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'AIRSHOWER' for goods in class 11 (Application No 4 869 319).

Decision of the Examiner: partial rejection of the Application.

Decision of the Board of Appeal: dismissal of the Appeal.

Pleas in law: Infringement of Article 7(1)(b) and (c) of Regulation (EC) No 40/94 [1], because the sign applied for is of a distinctive character and is not descriptive.

[1] Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

Action brought on 15 August 2007 — Kingdom of the Netherlands v Commission of the European Communities

(Case T-309/07)

(2007/C 235/45)

Language of the case: Dutch

Parties

Applicant: Kingdom of the Netherlands (represented by C. Wissels, M. de Grave and Y de Vries, as Agents)

Defendant: Commission of the European Communities

Form of order sought

— Annul Decision 2007/395 insofar as it is based on the Commission's view that it is necessary for the Commission to approve under Article 95(6) EC the maintenance of the Netherlands rules relating to the use of short-chain chlorinated paraffins that are not listed in Directive 2002/45;

— Order the Commission to pay the costs.

Pleas in law and main arguments

The pleas and arguments relied upon are similar to those in Case T-234/04 Netherlands v Commission (previously Case C-103/04) ([1]).

([1]) OJ 2004 C 94, p. 30.

Action brought on 16 August 2007 — Cemex UK Cement v Commission

(Case T-313/07)

(2007/C 235/46)

Language of the case: English

Parties

Applicant: Cemex UK Cement Ltd (Thorpe, United Kingdom), (represented by: S. Tromans, C. Thomann, lawyers, D. Wyatt QC and S. Taylor, Solicitor)

Defendant: Commission of the European Communities

Form of order sought

— to annul the Commission Decision of 12 June 2007, notified to the applicant, and received on 21 June 2007, rejecting the complaint made by Cemex UK Cement Limited concerning the national allocation plan for the allocation of greenhouse gas emission allowances notified by the United Kingdom in accordance with Directive 2003/87/EC of the European Parliament and the Council;

— order the Commission to pay the applicant's costs.

Pleas in law and main arguments

This application seeks annulment of a Commission decision contained in a letter dated 12 June 2007 and received by the applicant on 21 June 2007, rejecting a complaint filed by the applicant concerning the national allocation plan for Phase II of the EU Emissions Trading Scheme notified by the United Kingdom in accordance with directive 2003/87/EC ([1]) of the European Parliament and the Council.

The applicant complained to the European Commission that the reduction of allowances under the latter national allocation plan, in respect of the applicant's Rugby plant, along with the resulting over-allocation in respect of installations operated by the applicant's competitors, amounted to unlawful State aid, which allegedly:

(a) unlawfully discriminates against the Rugby plant by failing to take sufficient account of the latter plant's period of commissioning, and by basing the allocation to the plant on a period of emissions which the UK authorities knew to be unrepresentative;

(b) impedes the right of establishment of the applicant's parent company, Cemex Espana SA.

The applicant further contends that the Commission was wrong to see no incompatible aid deriving from the 'First Year Rule' and accordingly wrong to decline to initiate proceedings under Article 88(2) EC. In that sense, the applicant claims the Commission was wrong to conclude that the allocation methodology of allowances applied by the United Kingdom to the Rugby plant was not discriminatory and was consistent with Commission guidance.

([1]) Directive 2003/87/EC of the European Parliament and of the Council concerning the establishment of a scheme for greenhouse gas emission allowance trading in the Community and amending Council Directive 96/61/EC (OJ L 275, p. 32).

Action brought on 22 August 2007 — Simsalagrimm Filmproduktion v Commission and EACEA

(Case T-314/07)

(2007/C 235/47)

Language of the case: German

Parties

Applicant: Simsalagrimm Filmproduktion GmbH (Munich, Germany) (represented by: D. Reich and D. Sharma, lawyers)

Defendants: Commission of the European Communities and Education, Audiovisual and Culture Executive Agency (EACEA)

Form of order sought

— Annul the Decision Debit Note No 3240905584 of 20 June 2007;

— order the defendants to pay the costs.

Pleas in law and main arguments

In 1998, the applicant and the Commission signed a contract relating to support for a computer-animated cartoon series within the framework of the MEDIA II — Development and distribution programme ([1]). By letter of 20 June 2007, EACEA demanded reimbursement by the applicant of all of the monies advanced pursuant to that contract. The applicant brought the present action to contest that decision.

The applicant claims, first, that EACEA was not formally competent to take the contested decision, as it is the Commission that remains competent in that regard.