

Action brought on 1 August 2012 — Hungary v European Commission**(Case T-346/12)**

(2012/C 311/13)

*Language of the case: Hungarian***Parties***Applicant(s):* Hungary (represented by: Miklós Zoltán and Katalin Szíjjártó, agents)*Defendant(s):* European Commission**Form of order sought**

— Annul the Commission Implementing Decision C(2012) 3324 final of 25 May 2012 on national financial assistance granted to producer organisations

Pleas in law and main arguments

In support of the action, the applicant alleges that the Commission exceeded its powers and breached the relevant provisions of European Union law in determining the amount of the partial reimbursement to Hungary of the national financial assistance granted in 2009 to producers' organisations operating in the fruit and vegetable sector.

The applicant states that Union law does not provide for the option for the Commission, in its decision on partial Community reimbursement of national financial assistance granted, pursuant to Article 103e of Regulation (EC) No 1234/2007,⁽¹⁾ to producers' organisations operating in the fruit and vegetable sector, to agree to reimburse only those amounts which were indicated by Hungary in its application for the grant of national assistance, where they are given as estimated, expected or provisional amounts.

The applicant considers that, under Article 103e of Regulation No 1234/2007, the Commission's authorisation for national assistance relates to the grant of assistance and not to the establishment by the Commission of a maximum limit for the assistance which can be granted. That limit is laid down unequivocally in Regulation No 1234/2007 which provides that national assistance may not exceed 80 % of the financial contributions to the operational funds of members or producers' organisations. Nor do the rules concerning partial Community reimbursement of national assistance allow the Commission, in authorising such partial reimbursement, to fix as a maximum limit the amount that the Member State communicated to the Commission in its application for authorisation either as the total amount of assistance or as the amount of assistance provided for certain producers' organi-

sations, especially when in that communication the Government of Hungary put forward the amounts in question as merely planned or provisional amounts.

Similarly, the applicant states that the Commission has the right to verify that the assistance actually received has not exceeded the above-mentioned maximum limit of 80 %, and that the reimbursement sought does not exceed 60 % of the assistance granted, but not to lay down a maximum limit for reimbursement of the amounts set out in the application for authorisation or in the communication on that application, especially when that application or communication stresses the estimated, planned or provisional nature of the data. Where, for certain reasons, there is a change during the year in the amount of national assistance given to any producers' organisation, partial Community reimbursement is to be granted in respect of the amount actually received, provided that the requirements laid down by Union law in that regard are fulfilled.

⁽¹⁾ Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organisation of agricultural markets and on specific provisions for certain agricultural products (OJ 2007 L 299, p. 1).

Action brought on 31 July 2012 — Globosat Programadora v OHIM — Sport TV Portugal (SPORT TV INTERNACIONAL)**(Case T-348/12)**

(2012/C 311/14)

*Language in which the application was lodged: English***Parties***Applicant:* Globosat Programadora Ltda (Rio de Janeiro, Brazil) (represented by: S. Micallef, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party to the proceedings before the Board of Appeal:* Sport TV Portugal, SA (Lisbon, Portugal)**Form of order sought**

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 23 May 2012 in case R 2079/2010-4;

— Annul all costs orders made against the applicant by the Office, and order the later to bear the costs of the applicant.

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The word mark 'SPORT TV INTERNACIONAL', for services in classes 35, 38 and 41 — Community trade mark application No 6915094

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Portuguese trade mark registration No 329507 of the figurative mark 'SPORTV', for services in classes 38 and 41

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 42(2) and (3) of Council Regulation No 207/2009 and Infringement of Rule 22(3) of Commission Regulation No 2868/95.

— Order the respondent as the losing party to bear all costs and fees incurred by the applicant in the proceedings before the Cancellation Division, the Board of Appeal and the General Court.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: The word mark 'ALARIS', for goods and services in classes 10, 37 and 42 — Community trade mark registration No 571521

Proprietor of the Community trade mark: The other party to the proceedings before the Board of Appeal

Party applying for revocation of the Community trade mark: The applicant

Decision of the Cancellation Division: Revoked the Community trade mark only in part

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of the fundamental principles that must be applied in revocation proceedings based on non-use. Infringement of Articles 15 and 9 of Council Regulation No 207/2009.

Action brought on 6 August 2012 — Aleris v OHIM — Carefusion 303 (ALARIS)

(Case T-353/12)

(2012/C 311/15)

Language in which the application was lodged: English

Parties

Applicant: Aleris Holding AB (Stockolm, Sweden) (represented by: A. Kylhammar and K. Westerberg, lawyers)

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

Other party to the proceedings before the Board of Appeal: Carefusion 303, Inc. (San Diego, United States)

Form of order sought

— Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade marks and Designs) of 11 May 2012 (R 334/2011-5), as well as Section 2 of the Cancellation decision, and render a decision in accordance with the applicant's request; and

Action brought on 6 August 2012 — Debonair Trading Internacional v OHIM — Ibercosmetica (SÔ:UNIC)

(Case T-356/12)

(2012/C 311/16)

Language in which the application was lodged: English

Parties

Applicant: Debonair Trading Internacional Lda (Funcha, Madeira) (represented by: T. Alkin, Barrister)

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

Other party to the proceedings before the Board of Appeal: Ibercosmetica, SA de CV (Mexico City, Mexico)

Form of order sought

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 4 June 2012 in case R 1033/2011-4;

— Order the other party to pay the costs incurred by the applicant.