

Mark or sign cited in opposition: Community figurative mark containing the word element 'VICTORIA' (No 2 632 271) for goods in Classes 31, 32 and 33; and Spanish word mark 'VICTORIA' (No 1 648 564) for goods in Class 32.

Decision of the Opposition Division: Rejection of the opposition in its entirety

Decision of the Board of Appeal: Partial annulment of the decision under appeal and partial refusal of the application for registration.

Pleas in law: Incorrect interpretation and application of Article 8(1)(b) of Regulation No 207/2009 on the Community trade mark.

Action brought on 30 April 2010 — Vesteda Groep v Commission

(Case T-206/10)

(2010/C 179/90)

Language of the case: Dutch

Parties

Applicant: Vesteda Groep BV (Maastricht, Netherlands) (represented by: G. van der Wal and T. Boesman, lawyers)

Defendant: European Commission

Form of order sought

— Annul the Commission's decision of 15 December 2009;

— order the Commission to pay the costs.

Pleas in law and main arguments

The applicant seeks annulment of Commission Decision C(2010) 26 final of 15 December 2009 relating to State aid E 2/2005 and N 642/2009 (Netherlands) — Existing and special project aid to housing corporations. The applicant relies on three pleas in law in support of its application.

First, the applicant submits that, at paragraphs 25 to 37 of the contested decision, the Commission erred in law in finding that the Netherlands system of financing social housing and all changes to that system since the introduction of the EEC Treaty constitute existing aid and that, on that basis, the Commission's assessment is made in the context of Article 108(1) TFEU and Chapter 5 of Regulation No 659/1999.⁽¹⁾

According to the applicant, the Commission made errors of assessment, its examination of the changes to that system was inadequate and it gave insufficient reasons for the contested decision.

Second, according to the applicant, the Commission erred in law in the contested decision in accepting on the basis of Article 19 of Regulation No 659/1999 the measures proposed by the Netherlands as referred to in Article 19(1) of Regulation No 659/1999. The appropriate measures accepted by the Commission are inadequate and/or are not suitable for ensuring that the existing aid is compatible with Articles 107 TFEU and 106 TFEU. Furthermore, the Commission applied the requirements of Article 106(2) TFEU incorrectly and gave insufficient reasons for its decision.

Third, the applicant submits that the Commission erred in law in neglecting to initiate the procedure provided for under Article 108(2) TFEU and Article 4(4) of Regulation No 659/1999.

⁽¹⁾ Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1).

Action brought on 6 May 2010 — Cree v OHIM (TRUEWHITE)

(Case T-208/10)

(2010/C 179/91)

Language in which the application was lodged: German

Parties

Applicant: Cree Inc (Durham, USA) (represented by V. Schiller, lawyer)

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

Form of order sought

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 February 2010 in Case R 985/2009-2;

— Order the defendant to pay the costs.