

Defendant: European Union Intellectual Property Office (represented by: D. Hanf, acting as Agent)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 6 July 2021 (Case R 1864/2020-2) relating to an application for registration of the word sign COMMANDOS as an EU trade mark.

Operative part of the order

1. There is no longer any need to adjudicate on the action.
2. The European Union Intellectual Property Office (EUIPO) shall bear its own costs and pay those incurred by Kalypso Media Group GmbH.

(¹) OJ C 431, 25.10.2021.

Action brought on 7 March 2022 — Ecocert India v Commission

(Case T-123/22)

(2022/C 207/58)

Language of the case: English

Parties

Applicant: Ecocert India Pte Ltd (Gurugram, India) (represented by: Y. Martinet, D. Todorova and J. Sohm, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul Article 1 in conjunction with point 5 of Annex I, as concerning India, of Commission Implementing Regulation (EU) 2021/2325 of 16 December 2021 establishing, pursuant to Regulation (EU) 2018/848 of the European Parliament and of the Council, the list of third countries and the list of control authorities and control bodies that have been recognised under Article 33(2) and (3) of Council Regulation (EC) No 834/2007 for the purpose of importing organic products into the Union, (¹) in so far as that provision removes Ecocert India Private Limited from the recognised control bodies appearing in the list for India, accredited for carrying out controls and issuing certificates of inspection authorising the release for free circulation in the European Union, as organic products, of products imported from India; and
- order the Commission to pay all the expenses.

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 incompetence of the defendant as to delisting the applicant from the list of recognised Indian control bodies.
 - In application of Article 33(2) of Regulation (EC) No 834/2007, (²) and Article 7 of Regulation (EC) No 1235/2008, (³) the defendant is competent to establish a list of recognised third countries, which is set out in Annex III of Regulation (EC) No 1235/2008. However, only the competent third country authority can accredit or delist control bodies. By removing the applicant from the list of recognised control bodies, it is argued that the defendant exceeded the limits of its competence and violated Article 33(2) of Regulation (EC) No 834/2007, combined with Article 7 of Regulation (EC) No 1235/2008. In addition, the provisions on which the defendant based Regulation (EU) 2021/2325, namely Article 3(a) of Commission Delegated Regulation (EU) 2021/1342 of 27 May 2021, (⁴) had not entered into force until 1 January 2022.

2. Second plea in law, alleging infringement by the defendant of essential procedural requirements.
 - By deciding to remove the applicant from the list of Indian control bodies on the basis of the list as published in Annex III to Commission Regulation (EC) No 1235/2008 (list of recognised third countries), the applicant argues that the defendant deprived it of any procedural guarantees, as under this legal basis there is no possibility for individual control bodies to be heard before a negative decision is taken on their behalf.
3. Third plea in law, alleging an error of assessment of the facts and verification of the evidence; error of assessment by the defendant as regards the adoption of Regulation (EU) 2021/2325.
 - First part of the third plea: the defendant, it is argued, failed to take into consideration the fact that the applicant was not aware of the use of ethylene oxide (EtO) as a fumigant to fight salmonella, at the time of the occurring of the event.
 - Second part of the third plea: the defendant did not draw the right conclusions from the fact that the applicant took all the necessary remedial measures.
 - Third part of the third plea: the defendant failed, in the applicant's view, to take into consideration the sanctions adopted by the Indian competent authority APEDA.
4. Fourth plea in law, alleging violation of the general principles of law of legitimate expectations, proportionality and non-discrimination.
 - First part of the fourth plea: violation of the principle of proportionality, as the removal of the applicant from the list of certified control bodies was disproportionate to the discovered irregularities and failed to take into account the time lag and appropriate corrective measures.
 - Second part of the fourth plea: violation of the principles of equal treatment and non-discrimination, as the defendant, it is argued, decided in a discriminatory fashion to decertify only certain control bodies, although the same irregularities were committed by other entities, thus creating unfair competition between foreign control bodies.
 - Third part of the fourth plea: violation of the principle of legitimate expectations, as the repeated inclusion of the applicant on the list of control bodies, since 2006, has created a situation likely to give rise to legitimate expectations which was violated by the defendant; the unclear and unpredictable legal provision served as a basis for the removal of the applicant from the list of Indian control bodies.

⁽¹⁾ OJ L 2021 L 465, p. 8.

⁽²⁾ Council Regulation (EC) No 834/2007 of 28 June 2007 on organic production and labelling of organic products and repealing Regulation (EEC) No 2092/91 (OJ 2007 L 189, p. 1).

⁽³⁾ Commission Regulation (EC) No 1235/2008 of 8 December 2008 laying down detailed rules for implementation of Council Regulation (EC) No 834/2007 as regards the arrangements for imports of organic products from third countries (OJ L 2008 L 334, p. 25).

⁽⁴⁾ Commission Delegated Regulation (EU) 2021/1342 of 27 May 2021 supplementing Regulation (EU) 2018/848 of the European Parliament and of the Council with rules on the information to be sent by third countries and by control authorities and control bodies for the purpose of supervision of their recognition under Article 33(2) and (3) of Council Regulation (EC) No 834/2007 for imported organic products and the measures to be taken in the exercise of that supervision (OJ 2021 L 292, p. 20).

Action brought on 23 March 2022 — Hyundai Heavy Industries Holdings v Commission

(Case T-156/22)

(2022/C 207/59)

Language of the case: English

Parties

Applicant: Hyundai Heavy Industries Holdings Co. Ltd (Seoul, South Korea) (represented by: S. Völcker, J. Ruiz Calzado, H. Armengod Suarez, J.-B. Douchy, lawyers, and D. Little, Solicitor)

Defendant: European Commission