

Action brought on 13 July 2023 — Imerys Aluminates Groupe v Commission**(Case T-391/23)**

(2023/C 314/19)

*Language of the case: French***Parties***Applicant:* Imerys Aluminates Groupe (Paris, France) (represented by: Y. Martinet, lawyer)*Defendant:* European Commission**Form of order sought**

The applicant claims that the Court should:

- declare that the European Commission, by a document of 22 July 2019 entitled ‘Frequently Asked Questions on the Free Allocation Rules for the EU ETS post-2020’, adopted an interpretation which adversely affects the applicant and which is binding on the Member States, as interpreted by the Conseil d’État (Council of State, France) (a national court of last instance);
- order the European Commission to pay compensation for the damage suffered by the company Imerys Aluminates as a result of the adoption of the document of 22 July 2019 entitled ‘Frequently Asked Questions on the Free Allocation Rules for the EU ETS post-2020’, calculated at EUR 40 075 347;
- order the European Commission to pay all the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging that the Commission acted wrongfully in adopting the document of 22 July 2019 entitled ‘Frequently Asked Questions on the Free Allocation Rules for the EU ETS post-2020’ (‘the FAQ’). This plea is divided into three parts:
 - the first part, alleging breach of the principle of legitimate expectations;
 - the second part, alleging breach of the principle of legal certainty;
 - the third part, alleging infringement of Article 6 of the Aarhus Convention.
2. Second plea in law, alleging failure to observe the principle of legal certainty, should Implementing Regulation No 2021/447 ⁽¹⁾ be interpreted as implicitly setting out the rules of interpretation explicitly set out in the FAQ of 22 July 2019.

⁽¹⁾ Commission Implementing Regulation (EU) 2021/447 of 12 March 2021 determining revised benchmark values for free allocation of emission allowances for the period from 2021 to 2025 pursuant to Article 10a(2) of Directive 2003/87/EC of the European Parliament and of the Council (OJ 2021 L 87, p. 29).

Action brought on 14 July 2023 — Stada Arzneimittel v EUIPO — Bioiberica (DAOgest)**(Case T-396/23)**

(2023/C 314/20)

*Language in which the application was lodged: English***Parties***Applicant:* Stada Arzneimittel AG (Bad Vilbel, Germany) (represented by: J.-C. Plate, R. Kaase and K. Schmid-Burgk, lawyers)

Defendant: European Union Intellectual Property Office

Other party to the proceedings before the Board of Appeal: Bioiberica, SAU (Palafolls, Spain)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Application for European Union word mark DAOgest — Application for registration No 18 332 942

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 25 April 2023 in Case R 1384/2022-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs of the proceedings.

Pleas in law

- Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 14 July 2023 — Bodegas Aguiuncho v EUIPO — Mar de Frades (ALBARIÑO mar de ons)

(Case T-398/23)

(2023/C 314/21)

Language in which the application was lodged: Spanish

Parties

Applicant: Bodegas Aguiuncho, SL (Sanxenxo, Spain) (represented by: J.M. Diez Roig, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Mar de Frades, SL (Cartagena, Spain)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark ALBARIÑO mar de ons — Application for registration No 18 408 426

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 18 May 2023 in Case R 0164/2023-1