

After a first extension of the time-limit until 11 April 2013, the Commission sent the UAHE a communication whereby it:

- (a) granted access to the acknowledgements of receipt sent to the Comisión Nacional de la Competencia in relation to the two sets of proceedings in question;
- (b) informed the applicant that it did not have any information relating to those proceedings and that the information in its possession was protected by the exceptions laid down in Article 4 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

The UAHE repeated its request and, after a first extension of the time-limit by 15 days, the Commission sent a further letter on 18 June, informing the UAHE that it was extending indefinitely the period for a response to the requests for access at issue.

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

1. First plea in law, alleging an error of law in the interpretation of Article 4 of Regulation 1049/2001, in that the Commission did not carry out a concrete, individual assessment of the applicability of the exceptions laid down in that provision to the requests for access at issue in the present proceedings.
2. Second plea in law, alleging breach of the first indent of Article 4(2) of Regulation 1049/2001, in that the requested information does not contain elements which could undermine the commercial interests of third-parties. In any event, that information could affect the interests of the applicant itself.
3. Third plea in law, alleging breach of the third indent of Article 4(2) of Regulation 1049/2001, in that the concept of investigations provided therein can only refer to investigations by Community institutions or bodies, not national ones. Moreover, the facts investigated in both sets of proceedings are now time-barred.
4. Fourth plea in law, alleging breach of the second subparagraph of Article 4(3) of Regulation 1049/2001, in that, in the context of the requested documents, the Commission does not take decisions, since its approach is purely passive, merely receiving documents or making observations. Furthermore, and in any event, the exception relied on can be applied only in respect of internal documents.

Action brought on 14 August 2013 — L'Oréal v OHIM — Cosmetica Cabinas (AINHOA)

(Case T-426/13)

(2013/C 304/36)

Language in which the application was lodged: English

Parties

Applicant: L'Oréal SA (Paris, France) (represented by: M. Granado Carpenter and M. Polo Carreño, lawyers)

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

Other party to the proceedings before the Board of Appeal: Cosmetica Cabinas, SL (El Masnou, Spain)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 June 2013 given in Case R 1642/2012-1;
- Award the applicant the costs incurred by the present proceedings.

Pleas in law and main arguments

Registered Community trade mark in respect of which an application for revocation has been made: The word mark 'AINHOA' for services and goods in Classes 3, 35 and 39 — Community trade mark registration No 2 720 811

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 rights of the CTM proprietor in respect of services in Classes 35 and 39 and rejected the application for revocation in respect of 'cosmetic products' in Class 3

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 51(1)(a) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark ⁽¹⁾.

⁽¹⁾ OJ L 78, p. 1

Action brought on 20 August 2013 — Triarii v Commission

(Case T-435/13)

(2013/C 304/37)

Language of the case: English

Parties

Applicant: Triarii BV (The Hague, Netherlands) (represented by: G. Verhellen, lawyer)

Defendant: European Commission