

Form of order sought

The applicant claims that the Court should:

- Annul Commission's decision of 26 July 2012, implicitly refusing access to a document produced in the framework of merger proceedings (Case COMP/M.6166 — NYSE Euronext/Deutsche Börse); and
- Order the defendant to pay 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 has not rendered a decision on the applicant's request to access to a certain document within the time limit foreseen by Article 8(2) of Regulation No 1049/2001⁽¹⁾. Pursuant to Article 8(3) of the Regulation, this constitutes an implicit negative and unreasoned decision and thereby constitutes a violation of relevant provisions on access to documents.
2. Second plea in law, alleging that none of the arguments raised by the Commission, in its preliminary assessment, justify denying the applicant access to the requested document.

⁽¹⁾ 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 L 145, p. 43)

Action brought on 26 September 2012 — Banco Bilbao Vizcaya Argentaria v OHIM (VALORES DE FUTURO)

(Case T-428/12)

(2012/C 366/75)

Language of the case: Spanish

Parties

Applicant: Banco Bilbao Vizcaya Argentaria, SA (Bilbao, Spain) (represented by J. de Oliveira Vaz Miranda Sousa and N. González-Alberto Rodríguez, lawyers)

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

Form of order sought

The applicant claims that the Court should:

- annul the part of the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal

Market (Trade Marks and Designs) of 4 July 2012 in Case R 2299/2011-2 which confirms the refusal to register Community trade mark No 9 408 758; and

- order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: word mark 'VALORES DE FUTURO' for goods and services in Classes 16, 36 and 41 — Community trade mark application No 9 408 758

Decision of the Examiner: rejection in part of the application for registration

Decision of the Board of Appeal: appeal dismissed

Pleas in law:

- Infringement of Article 7(1)(c) of Regulation No 207/2009

- Infringement of Article 7(1)(b) of Regulation No 207/2009

Action brought on 28 September 2012 — Distillerie Bonollo and Others v Council

(Case T-431/12)

(2012/C 366/76)

Language of the case: English

Parties

Applicants: Distillerie Bonollo SpA (Formigine, Italy); Industria Chimica Valenzana (ICV) SpA (Borgoricco, Italy); Distillerie Mazzari SpA (Sant'Agata sul Santerion, Italy); Caviro Distillerie Srl (Faenza, Italy); and Comercial Química Sarasa, SL (Madrid, Spain) (represented by: R. MacLean, Solicitor)

Defendant: Council of the European Union

Form of order sought

- Annul Article 1 of Council Implementing Regulation (EU) 626/2012 of 26 June 2012, imposing definitive anti-dumping duties on imports of tartaric acid originating in the People's Republic of China⁽¹⁾ (the 'Contested Regulation') to the extent that the anti-dumping duty rates applied to Ninghai Organic Chemical Factory and Changmao Biochemical Engineering Company Co. Ltd have been unlawfully established on the grounds of manifest errors of assessment vitiating the measure, breaches of Articles 2 and 11(9) of Council Regulation (EC) 1225/2009⁽²⁾ (the 'Basic Anti-Dumping Regulation'), violations of the applicants rights of defence and failure to sufficiently motivate the Contested Regulation;