

4. Fourth plea in law, alleging that the Council infringed the principle of sound administration and the applicants' rights of defence by failing to examine the arguments raised by the applicants during the investigation and to provide the applicants with the disclosure of essential facts and considerations concerning the case, the duty to state reasons and the principle of sound administration and the rights of defence of the applicants by providing the Member States with information on the case prior to receiving any comments from the applicants and by consulting the Anti-Dumping Advisory Committee before the applicants had been heard.

⁽¹⁾ Council Regulation (EC) No 1225/2009 on Protection Against Dumped Imports from Countries not Members of the European Community (OJ 2009 L343, p. 51), as amended.

Action brought on 28 September 2012 — Steiff v OHIM (Metal button in the middle section of the ear of a soft toy)

(Case T-433/12)

(2012/C 366/78)

Language of the case: German

Parties

Applicant: Margarete Steiff GmbH (Giengen an der Brenz, Germany) (represented by D. Fissl, lawyer)

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 decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 23 July 2012 in Case R 1693/2011-1;
- Annul OHIM's rejection of Community trade mark application No 9 439 613;
- Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the positional mark with which protection is claimed for a gleaming or matt, round metal button fastened to the middle section of the ear of a soft toy for goods in Class 28 — Community trade mark application No 9 439 613

Decision of the Examiner: the application was rejected

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: infringement of Article 7(1)(b) of Regulation No 207/2009

Action brought on 28 September 2012 — Steiff v OHIM (Fabric tag with metal button in the middle section of the ear of a soft toy)

(Case T-434/12)

(2012/C 366/79)

Language of the case: German

Parties

Applicant: Margarete Steiff GmbH (Giengen an der Brenz, Germany) (represented by D. Fissl, lawyer)

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 decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 July 2012 in Case No R 1692/2011-1;
- Annul OHIM's rejection of Community trade mark application No 9 439 654;
- Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the positional mark with which protection is claimed for a rectangular, elongated fabric tag fastened to the middle section of the ear of a soft toy by means of a gleaming or matt, round metal button for goods in Class 28 — Community trade mark application No 9 439 654

Decision of the Examiner: the application was rejected

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: infringement of Article 7(1)(b) of Regulation No 207/2009

Action brought on 5 October 2012 — Changmao Biochemical Engineering v Council

(Case T-442/12)

(2012/C 366/80)

Language of the case: English

Parties

Applicant: Changmao Biochemical Engineering Co. Ltd (Changzhou, China) (represented by: E. Vermulst and S. Van Cutsem, lawyers)