

Pleas in law: Infringement of Articles 42(2) and 42(3) of Council Regulation No 207/2009.

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Action brought on 16 November 2012 — European Drinks v OHIM — Alexandrion Grup Romania (DRACULA BITE)

(Case T-497/12)

(2013/C 26/117)

Language in which the application was lodged: English

Parties

Applicant: European Drinks SA (Ștei, Romania) (represented by: V. von Bomhard, lawyer)

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

Other party to the proceedings before the Board of Appeal: SC Alexandrion Grup Romania Srl (Pleasa, Romania)

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 September 2012 in case R 679/2011-4; and

— Order that the costs of the proceedings be borne by the Defendant

Pleas in law and main arguments

Applicant for a Community trade mark: The other party to the proceedings before the Board of Appeal

Community trade mark concerned: The figurative mark 'DRACULA BITE', for goods and services in classes 33, 35 and 39 — Community trade mark application No 7588321

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Romanian trade mark registration No 34847 of the figurative mark 'Dracula', for goods and services in classes 33 and 35

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Dismissed the appeal

Action brought on 16 November 2012 — Koinopraxia Touristiki Loutrakiou v Commission

(Case T-498/12)

(2013/C 26/118)

Language of the case: Greek

Parties

Applicant: Koinopraxia Touristiki Loutrakiou AE, O.T.A. — Loutraki AE — Club Hotel Casino Loutraki Touristikos kai Xenodokhiakes Epikhirisis AE (Loutraki, Greece) (represented by: S. Pappas, lawyer)

Defendant: European Commission

Form of order sought

— annul the Commission's confirmatory decision of 18 September 2012 — Ares (2012)1082114 — by which the applicant's request for access to certain documents was refused, and

— order the European Commission to pay the costs.

Pleas in law and main arguments

By this action the applicant seeks, in accordance with Article 263 TFEU, the annulment of the European Commission's decision of 18 September 2012, which finally refused the applicant's confirmatory request for access to the letter of 16 May 2012 from the Greek authorities relating to the quantification of the amount of unlawful State aid to be recovered in accordance with the decision dated 24 May 2011 ⁽¹⁾ of the European Commission's Directorate General for Competition.

In support of its action the applicant relies on the following pleas in law:

First, the applicant claims an infringement of the obligation on the administration to state reasons for the refusal decisions, given that in its reply, the administration confines itself to a general reference to the exceptions laid down in Regulation 1049/2001, without any further elaboration and without any real statement of reasons for the decision.

Secondly, the applicant claims an infringement of the principle of transparency, contrary to the well known Regulation 1049/2001 and Regulation 659/1999, ⁽²⁾ given that the defendant is not providing to the public the widest possible access to documents by neither interpreting nor applying strictly the exceptions laid down in Regulation 1049/2001.