

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The word mark 'THE SPIRIT OF CUBA' for goods and services of classes 33, 35 and 42 — Community trade mark registration No 2 109 106

Proprietor of the Community trade mark: The applicant

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

Grounds for the application for a declaration of invalidity: The application of invalidity was based on Articles 52(1)(a) and 7 (1)(b), (c) and (g) of Council Regulation No 207/2009

Decision of the Cancellation Division: Declared the contested Community trade mark invalid

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law: Infringement of Article 7(1)(c) of Council Regulation No 207/2009.

Action brought on 15 April 2013 — Typke v Commission

(Case T-214/13)

(2013/C 171/65)

Language of the case: English

Parties

Applicant: Rainer Typke (Hasbergen, Germany) (represented by: B. Cortese and A. Salerno, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the European Commission of 5 February 2013 denying applicant's confirmatory application for access to documents pursuant to Regulation (EC) No 1049/2001 ⁽¹⁾ — in the procedure GESTDEM 2012/3258;
- Annul the implied negative decision of the European Commission of 13 March 2013 on applicant's confirmatory application for access to documents pursuant to Regulation (EC) No 1049/2001 — in the procedure GESTDEM 2013/0068;
- Order the defendant to pay the applicant's costs.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law, alleging violation of Articles 2 and 4 of Regulation (EC) No 1049/2001, as well as of other provisions of the said regulation, as:

- The Commission's assumption that the applicant's request would not fall within the realm of the Regulation (EC) No 1049/2001, implying the creation of new documents instead of the access to existing ones, is unfounded;
- The Commission's assumption that the applicant's requests would be disproportionate, therefore inadmissible, even if considering the possibility of granting partial access, is unfounded;
- The Commission's assumption that the applicant's requests would be barred by the need not to disclose third parties' personal data is unfounded; and
- The Commission's assumption that the applicant's requests would be barred by the need to preserve the confidentiality of the proceedings of the Selection Board, and by the need to protect the latter's decision making process, is unfounded.

⁽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 2001 L 145, p. 43)

Action brought on 16 April 2013 — Scuola Elementare Maria Montessori v Commission

(Case T-220/13)

(2013/C 171/66)

Language of the case: Italian

Parties

Applicant: Scuola Elementare Maria Montessori (Rome, Italy) (represented by: A. Nucara and E. Gambaro, lawyers)

Defendant: European Commission

Pleas in law

The pleas in law and main arguments are the same as those relied on in Case T-219/13 *Ferracci v Commission*.

Action brought on 22 April 2013 — Cofresco Frischhalteprodukte v Commission

(Case T-223/13)

(2013/C 171/67)

Language of the case: French

Parties

Applicant: Cofresco Frischhalteprodukte GmbH & Co. KG (Minden, Germany) (represented by: H. Weil, lawyer)