

The applicants allege that the defendant sent letters to the Netherlands Government about a pending investigation conducted by the European Anti-Fraud Office (OLAF), in respect of which no (final) report has yet been produced, but which expressly name the applicants and which indicate, or at least very strongly suggest, that the applicants are involved in irregularities in the context of the management of the 9th European Development Fund project, and accordingly, on the basis of that allegation, decided that the implementation of the 10th European Development Fund for the projects on the former Netherlands Antilles could not be assigned to the applicants. At the same time, the applicants were never designated by OLAF as a 'person concerned', so they have never been aware that they had to defend themselves as a 'person concerned', thus making it impossible for them to defend themselves since, up to now, they have still not heard what the concrete allegations, allegedly existing against them, and against which they must defend themselves, are.

2. Second plea in law, alleging a breach of the principle of the protection legitimate expectations by creating a legitimate expectation on the part of the applicants that they would be responsible for the implementation of the 10th European Development Fund as regards the former Netherlands Antilles.
3. Third plea in law, alleging a breach of the principle of proportionality because of the Commission's exclusion of the applicants solely due to the existence of 'preliminary findings' in an OLAF investigation which mention 'potential problems'.
4. Fourth plea in law, alleging a breach of the right to be heard.
5. Fifth plea in law, alleging a breach of the principle of transparency as set out in Article 14 of Regulation (EC) No 215/2008, ⁽¹⁾ and the duty to give reasons.
6. Sixth plea in law, alleging breach of Article 18 of Regulation (EC) No 2304/2002 ⁽²⁾ and of the single programming document for the 10th European Development Fund.
7. Seventh plea in law, alleging breach of Article 29 of Regulation (EC) No 215/2008 since the conditions for the implementation of the financing, in the context of assigning joint management to IMG have not been fulfilled. The second contested decision is therefore unlawful as well.

⁽¹⁾ Council Regulation (EC) No 215/2008 of 18 February 2008 on the Financial Regulation applicable to the 10th European Development Fund (OJ 2008 L 78, p. 1).

⁽²⁾ Commission Regulation (EC) No 2304/2002 of 20 December 2002 implementing Council Decision 2001/822/EC on the association of the overseas countries and territories with the European Community (Overseas Association Decision) (OJ 2002 L 348, p. 82).

Action brought on 19 September 2013 — Ratioparts-Ersatzteile-Vertriebs v OHIM — IIC (NORTHWOOD)

(Case T-509/13)

(2013/C 344/118)

Language in which the application was lodged: German

Parties

Applicant: Ratioparts-Ersatzteile-Vertriebs GmbH (Euskirchen, Germany) (represented by: M. Koch, lawyer)

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

Other party to the proceedings before the Board of Appeal: IIC — Intersport International Corp. GmbH (Bern, Switzerland)

Form of order sought

The applicant claims that the Court should:

- alter the decision of the Second Board of Appeal of 4 July 2013 (Case R 2211/2012-2) in such a way that opposition No B17963622 is rejected in its entirety, and
- order the opponent to pay the costs of the opposition proceedings and the appellant to pay the costs of the appeal proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the figurative mark 'NORTHWOOD' for goods and services in Classes 8, 9, 20, 25 and 35 — Community trade mark application No 9 412 776

Proprietor of the mark or sign cited in the opposition proceedings: IIC — Intersport International Corp. GmbH

Mark or sign cited in opposition: the international registration with protection in respect of the European Union of the mark 'NORTHBROOK' for goods in Classes 9, 14, 18, 20, 22, 25 and 28

Decision of the Opposition Division: the opposition was upheld in part

Decision of the Board of Appeal: the appeal was dismissed in part

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009