

**Parties**

*Applicants:* Citizens' Committee for the Citizens' Initiative Minority SafePack — one million signatures for diversity in Europe and Others (represented by: E. Johansson, J. Lund and C. Lund, lawyers)

*Defendant:* Commission

**Form of order sought**

- Annul Commission Decision C(2013)5969 final of 13 September 2013, published on 16 September 2013;
- Order the Commission to pay the costs.

**Pleas in law and main arguments**

In support of the action, the applicants rely on two pleas in law.

1. First plea in law, alleging infringement of essential procedural requirements

- The applicants claim that the contested decision infringes the procedural requirements laid down in Article 296(2) TFEU and Article 4(3) of Regulation (EU) No 211/2011.<sup>(1)</sup>
- The applicants state in that regard inter alia that the Commission fails to identify among the eleven topics which form the subject matter of the citizens' initiative those which in its opinion fall outside the framework of its powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties. The Commission also does not state why those topics fall outside that framework.
- As part of this plea the applicants also complain that the Commission does not state why Regulation No 211/2011 does not confer a power to register at least a part or parts of a planned citizens' initiative.

2. Second plea in law, alleging infringement of the treaties or of a provision for implementation of the treaties

- Pursuant to this plea the applicants claim the infringement of Article 11 TEU, Article 24(1) TFEU and Article 4(2) and (3) of Regulation No 211/2011.
- The applicants state in that regard that none of the topics in relation to which the Commission is to be called upon to submit proposals lies manifestly outside the framework of the Commission's powers to submit a proposal for a legal act of the Union for the purpose of implementing the Treaties. They add that, even if one of the topics were to fall outside that framework, the Commission should have registered the planned citizens' initiative in respect of the topics which in its opinion did not fall manifestly outside that framework.

---

<sup>(1)</sup> Regulation (EU) No 211/2011 of the European Parliament and of the Council of 16 February 2011 on the citizens' initiative (OJ 2011 L 65, p. 1).

---

**Action brought on 10 December 2013 — Petco Animal Supplies Stores v OHIM — Gutiérrez Ariza (PETCO)**

**(Case T-664/13)**

(2014/C 112/47)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Petco Animal Supplies Stores, Inc. (San Diego, United States) (represented by: C. Aikens, Barrister)

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

*Other party to the proceedings before the Board of Appeal:* Domingo Gutiérrez Ariza (Malaga, Spain)

**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 7 October 2013 given in Case R 347/2013-4;
- Order the defendant to pay the costs of proceedings.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant

*Community trade mark concerned:* The word mark 'PETCO' for goods and services in Classes 3, 31 and 35 — Community trade mark application No 10 114 081

*Proprietor of the mark or sign cited in the opposition proceedings:* The other party to the proceedings before the Board of Appeal

*Mark or sign cited in opposition:* Community trade mark No 9 062 902 for the figurative mark in red and white containing the verbal element 'PETCO' for goods and services in Classes 31 and 35

*Decision of the Opposition Division:* Upheld the opposition in part

*Decision of the Board of Appeal:* Accepted the appeal in part

*Pleas in law:* Infringement of Article 8(1)(a) and (b) CTMR.

---

**Action brought on 9 December 2013 — European Coalition to End Animal Experiments v ECHA**

**(Case T-673/13)**

**(2014/C 112/48)**

*Language of the case:* English

**Parties**

*Applicant:* European Coalition to End Animal Experiments (London, United Kingdom) (represented by: D. Thomas, Solicitor)

*Defendant:* European Chemicals Agency (ECHA)

**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the Board of Appeal of the European Chemicals Agency of 10 October 2013 in Case A-004-2012 relating to section 8.7.2 of Annex X of the Regulation (EC) No 1907/2006 <sup>(1)</sup> (developmental toxicity studies in a second species), insofar as it relates to a second species pre-natal developmental study;
- Remit the case to ECHA, with a direction that it consider where there is a need to conduct a pre-natal developmental study on the registrant's substance, based on the outcome of the first study and all other relevant available data.

**Pleas in law and main arguments**

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the Board of Appeal was wrong to say that the cumulative principle in the REACH testing annexes meant that a second species was the default requirement at Annex X to Regulation (EC) No 1907/2006 tonnage. In support of this plea the applicant claims that:
  - The Board of Appeal's reasoning represents a *non sequitur*. Testing requirements do not necessarily increase as one moves to a higher tonnage annex: the cumulative principle is often not relevant for particular endpoints, and is not for developmental toxicity;