

Form of order sought

The applicant claims that the General Court should:

- hold that, by issuing an order for repayment of the amount of EUR 258 479,21, the Commission has breached the provisions of Grant Agreement No ARTreat — 224297 under the Seventh Research Framework Programme (FP7);
- order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

In support of its action, the applicant raises three pleas in law.

1. First plea in law:

- exceeding of the limits of the scope of examination by reason of the audit which was carried out and the consequent impermissible evaluation of the results of that audit.

2. Second plea in law:

- failure to take into account the Form C signed by the beneficiary, although the Commission had requested that this be submitted, and failure to take account of evidence in the form of a declaration of an employee that it was not possible to obtain the documents from the coordinator of the consortium.

3. Third plea in law:

- Failure to take into account new comments and clarifications by reference to Article II.22.5 of the annex to the agreement, even though the Commission had requested the beneficiary to submit these and had imposed a time-limit for that purpose.

Action brought on 26 August 2014 — Frinsa del Noroeste v OHIM — Frisa Frigorífico Rio Doce (FRISA)

(Case T-638/14)

(2014/C 380/23)

Language in which the application was lodged: Spanish

Parties

Applicant: Frinsa del Noroeste, SA (Santa Eugenia de Riviera, Spain) (represented by: J. Botella Reyna, lawyer)

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

Other party to the proceedings before the Board of Appeal: Frisa Frigorífico Rio Doce, SA (Espírito Santo, Brazil)

Form of order sought

The applicant claims that the General Court should:

- refuse registration of Community trade mark No 10 329 721 FRISA to distinguish goods in Class 29 and services in Classes 35 and 39.

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: Figurative mark with word element 'FRISA' for goods and services in Classes 29, 35 and 39
— Application for Community trade mark No 10 329 721

Proprietor of the mark or sign cited in the opposition proceedings: Applicant

Mark or sign cited in opposition: Figurative mark with word element 'Frinsa' for goods in Class 29

Decision of the Opposition Division: Opposition upheld in part

Decision of the Board of Appeal: Decision of the Opposition Division annulled and opposition rejected in its entirety

Pleas in law: In its decision of 1 July 2014 in Joined Cases R 1547/2013-4 and R 1851/2013-4, the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) did not proceed to examine the applicant's arguments since it confined itself to deciding the cases in an identical manner, examining only the proof of use submitted during the proceedings.

Action brought on 28 August 2014 — Dellmeier/OHMI — Dell (LEXDELL)

(Case T-641/14)

(2014/C 380/24)

Language in which the application was lodged: English

Parties

Applicant: Alexandra Dellmeier (München, Germany) (represented by: J. Khöber, lawyer)

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

Other party to the proceedings before the Board of Appeal: Dell, Inc. (Round Rock, US)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal No R 0966/2013-2 of the Office for Harmonisation in the Internal Market dated 4 June 2014 regarding the opposition proceedings No B 1 698 2892 against Community Trademark Application No 008114779 'LEXDELL' and reject the opposition in its entirety.
- Order the defendant to pay the costs incurred in the proceedings before the Court.
- Set a date for an Oral Hearing for the case that findings of the Court are not possible without an Oral Hearing.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant.

Community trade mark concerned: The community word mark 'LEXDELL' for goods and services in classes 16, 25, 41 and 45 — Community trade mark application No 8 114 779.

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 figurative trade mark containing the verbal element 'DELL' registered under the No 6 420 641.

Decision of the Opposition Division: Partially upheld the opposition.