

2. Second plea in law, alleging, in the alternative, breach of Article 42 REACH.

— The applicant submits that to the extent ECHA may seek to rely upon Article 42(1) REACH as legal authority and/or the legal basis for the Contested Decision, Article 42(1) REACH does not provide ECHA any legal authority or basis for adopting the contested decision and that by adopting the contested decision ECHA has acted in breach of Article 42(1) REACH. The applicant submits that, in this case, ECHA has not adopted the appropriate decision as required by Article 42(1) REACH. The applicant submits that ECHA has consistently interpreted Article 42(1) REACH as not authorizing the issuance of a Statement of Non-Compliance.

3. Third plea in law, alleging a breach of the right to be heard.

— The applicant puts forward that the contested decision has been adopted in breach of the EU legal principles of the right to be heard, the right to respond and to reply, the right of defence, the right to notice, and the right to good administration. The applicant submits that as a direct consequence of the breach of these procedural and process rights, the contested decision is voidable and void. That is: ECHA had not acted in breach of the applicant's procedural and process rights, the applicant submits that the outcome of the process and the procedure would have materially differed.

4. Fourth plea in law, alleging breach of the principle of proportionality.

— The applicant submits that the contested decision was inconsistent with, and in breach of, the EU legal principle of proportionality. The applicant submits that the contested decision is not appropriate or necessary, did not constitute the least onerous measure and that the disadvantages caused were disproportionate to the aims pursued.

5. Fifth plea in law, alleging an error in interpretation of data requirements under REACH.

— The applicant submits that ECHA has committed an error in interpreting the information requirements regarding Annex X, section 8.7.2. as there is in fact no de facto requirement to conduct a pre-natal developmental toxicity study on a second species. The applicant therefore submits that ECHA has, by adopting the contested decision, acted without legal basis and outside the limits of its discretionary powers.

Action brought on 10 July 2015 — Hernández Zamora v OHIM — Rosen Tantau (Paloma)

(Case T-369/15)

(2015/C 320/50)

Language in which the application was lodged: Spanish

Parties

Applicant: Hernández Zamora, SA (Murcia, Spain) (represented by: J. L. Rivas Zurdo, lawyer)

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

Other party to the proceedings before the Board of Appeal: Rosen Tantau KG (Uetersen, Germany)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Community word mark 'Paloma' — Application for registration No 11 638 971

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 21 April 2015 in Case R 1697/2014-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order the party or parties opposing the application to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 10 July 2015 — Jordi Nogues/OHIM — Grupo Osborne (BADTORO)

(Case T-386/15)

(2015/C 320/51)

Language in which the application was lodged: Spanish

Parties

Applicant: Jordi Nogues, SL (Barcelona, Spain) (represented by: M. Sanmartín Sanmartín and E. López Parés, lawyers)

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

Other party to the proceedings before the Board of Appeal: Grupo Osborne, SA (El Puerto de Santa María, Spain)

Details of the proceedings before OHIM

Applicant: Applicant

Trade mark at issue: Community figurative mark containing the word element 'BADTORO' — Application for registration No 10 975 027

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of OHIM of 17 April 2015 in Case R 2570/2013-2