

Judgment of the General Court of 12 July 2018 — Consejo Regulador del Cava v EUIPO — Cave de Tain L'Hermitage, union des propriétaires (CAVE DE TAIN)

(Case T-774/16) ⁽¹⁾

(EU trade mark — Invalidity proceedings — Figurative EU trade mark CAVE DE TAIN — Earlier designation of origin 'CAVA' — Concept of 'evocation' of a protected designation of origin — Article 103 (2)(b) of Regulation (EU) No 1308/2013)

(2018/C 311/13)

Language of the case: English

Parties

Applicant: Consejo Regulador del Cava (Villafranca del Penedès, Spain) (represented by: C. Prat, lawyer)

Defendant: European Union Intellectual Property Office (represented by: E. Zaera Cuadrado and D. Walicka, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Cave de Tain L'Hermitage (Tain l'Hermitage, France) (represented by J.-P. Stouls, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 5 September 2016 (Case R 980/2015-4), relating to invalidity proceedings between Consejo Regulador del Cava and Cave de Tain L'Hermitage, union des propriétaires.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Consejo Regulador del Cava to pay the costs.

⁽¹⁾ OJ C 6, 9.1.2017.

Action brought on 20 June 2018 — Intercept Pharma and Intercept Pharmaceuticals v EMA

(Case T-377/18)

(2018/C 311/14)

Language of the case: English

Parties

Applicants: Intercept Pharma Ltd (Bristol, United Kingdom) and Intercept Pharmaceuticals, Inc. (New York, New York, United States) (represented by: L. Tsang, J. Mulryne, E. Amos and H. Kerr-Peterson, Solicitors and F. Campbell, Barrister)

Defendants: European Medicines Agency

Form of order sought

- annul the decision ASK-40399 communicated by the defendant to the applicants on 15 May 2018, to release some documentation under Regulation 1049/2001/EC; and
- order the defendant to pay the applicants legal and other costs and expenses in relation to this matter.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant erred in law by concluding that the 'court proceedings' indent of Article 4.2 of Regulation 1049/2001/EC was not engaged in the present case, on the basis that the documentation was not a document 'prepared for the purpose of court proceedings'. As a matter of law, the defendant should have concluded that the exemption was engaged.
2. Second plea in law, alleging further or in the alternative that the only legally permissible outcome of a proper balancing exercise, under the 'commercial interests' indent of Article 4.2 of Regulation 1049/2001/EC, would have been a decision not to release the documentation, in light of: (i) the compelling weight of the applicants' private interest in avoiding disclosure; and (ii) the merely vague and generic public interest in disclosure.

Action brought on 3 July 2018 — de Volksbank v SRB

(Case T-406/18)

(2018/C 311/15)

Language of the case: English

Parties

Applicant: de Volksbank NV (Utrecht, Netherlands) (represented by: M. van Loopik, A. Kleinhout, A. ter Haar and T. Waterbolk, lawyers)

Defendant: Single Resolution Board (SRB)

Form of order sought

- annul the decision of the Single Resolution Board of 12 April 2018 on the calculation of ex ante contributions to the Single Resolution Fund for 2018 (SRB/ES/SRF/2018/3);
- in the alternative, annul the abovementioned contested decision and declare Commission Delegated Regulation 2015/63 ('the delegated regulation')⁽¹⁾ partly or fully inapplicable, in accordance with Article 277 TFEU;
- in any event, order the SRB to pay the costs of the present proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging the breach of Article 103(2) of Directive 2014/59/EU,⁽²⁾ Article 70(2) of Regulation 806/2014⁽³⁾ and Article 4(1) of the delegated regulation, by using incomparable data to determine the applicant's net liabilities.
 - It follows from the text and objectives of Article 103(2) of Directive 2014/59/EU and Article 70(2) of Regulation 806/2014 that the SRB should use data from the same point or period in time to calculate net liabilities in accordance with those provisions.
 - It follows from the text and objectives of Article 4(1) of the delegated regulation, in the light of Directive 2014/59/EU and Regulation 806/2014, that the SRB must use comparable data in order to ensure a fair calculation of the contribution based on a bank's risk profile.