

— disclosure would not undermine public security in accordance with Article 4(1) of Regulation No 1049/2001 in so far as:

— whether third parties have provided ‘confidential’ information for use in those documents is irrelevant, since Regulation No 1049/2001 does not allow an institution to refuse access to a document in order to protect a hypothetical ‘third party’;

— the Council’s argument that it seeks to ‘protect’ the physical well-being of observers, witnesses and other sources constitutes a desire to protect the private interests of those persons and does not affect public security;

— in order to reconcile its concern for the protection of the identity of certain persons with the need to satisfy the interest of the public, the Council is able, always, to limit public access to the documents sought by deleting from those documents references that would allow identification of those ‘third parties’;

— the documents sought have previously been disclosed.

(<sup>1</sup>) Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43)

**Action brought on 23 November 2009 — Comercial Losan v OHIM — McDonald’s International Property (Mc. Baby)**

(Case T-466/09)

(2010/C 24/106)

*Language in which the application was lodged: Spanish*

**Parties**

*Applicant:* Comercial Losan (Zaragoza, Spain) (represented by: A. Vela Ballesteros, lawyer)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* McDonald’s International Property Co. Ltd (Delaware, United States)

**Form of order sought**

— uphold the action brought against the decision of the Board of Appeal of 1 September 2009 — R 1706/2008-1 Mc Baby/Mc Kids in the opposition proceedings No B 1049362 (Community trade mark application 4 441 393), allow registration of the Community trade mark applied for, and order the opposing party to pay the costs.

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* Comercial Losan

*Community trade mark concerned:* Figurative mark containing the word element ‘Mc. Baby’ (registration application No 4 741 393) for goods and services in Classes 25, 35 and 39

*Proprietor of the mark or sign cited in the opposition proceedings:* McDonald’s International Property Co. Ltd.

*Mark or sign cited in opposition:* Community figurative mark containing the word element ‘McKids’ (mark No 3 207 354) for goods in classes 16, 25 and 28; Community word mark ‘McDONALD’S’ (mark No 62 497) for goods and services in Classes 25, 28, 29, 30, 31, 32, 35, 41 and 42; and Community figurative mark containing the word element ‘McDONALD’S’ (mark No 62 521) for goods and services in Classes 25, 28, 29, 30, 31, 32, 35, 41 and 42

*Decision of the Opposition Division:* Partial upholding of the opposition.

*Decision of the Board of Appeal:* Partial upholding of the appeal.

*Pleas in law:* Incorrect interpretation and application of Article 8(1)(b) of Regulation No 40/94, replaced by Regulation No 207/2009.

**Action brought on 19 November 2009 — Stelzer v Commission**

(Case T-467/09)

(2010/C 24/107)

*Language of the case: German*

**Parties**

*Applicant:* Dierk Stelzer (Berlin, Germany) (represented by: F. Weiland, lawyer)

*Defendant:* Commission of the European Communities