

— order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the word mark 'carcheck' for goods and services in Classes 9, 16, 35, 36, 38, 41, 42 and 45 (Application No 7 368 681)

Decision of the Examiner: Partial refusal of registration

Decision of the Board of Appeal: Partial annulment of the Examiner's Decision

Pleas in law: Infringement of Article 7(1)(c) of Regulation No 40/94⁽¹⁾, since the Board of Appeal interpreted the absolute ground for refusal to register a mark, based on the exclusively descriptive character of the signs of which it consists, too broadly

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ L 11, 14.1.1994, p. 1)

Action brought on 19 January 2010 — Steinberg v Commission

(Case T-17/10)

(2010/C 80/60)

Language of the case: English

Parties

Applicant: Gerald Steinberg (Jerusalem, Israel) (represented by: T. Asserson, lawyer)

Defendant: European Commission

Form of order sought

— annulment of the contested decision;

— disclosure within 15 days of all documents specified in the application;

— award for costs;

— any other relief which the Court deems appropriate.

Pleas in law and main arguments

By means of this application the applicant seeks annulment of the Commission decision of 15 May 2009, received by the applicant on 22 November 2009, partially rejecting his request, pursuant to Regulation No 1049/2001⁽¹⁾, of the access to documents related to funding decisions for grants to Israeli and Palestinian non-governmental organisations for the past three years under the 'Partnership for Peace' (PfP) and 'European Instrument for Democracy and Human Rights' (EIDHR) programmes.

In support of its application the applicant puts forward four pleas in law.

First, the applicant contends that, by not providing the access to the requested documents, the defendant acted in violation of Article 2 of Regulation No 1049/2001.

Second, the applicant argues that by refusing full access to the requested documents the defendant acted in violation of Article 4 of Regulation No 1049/2001 as his request does not fall within the scope of any of the exceptions provided for in this article. Further, the applicant submits that, even if the exceptions would be applicable to his request, *quod non*, the right to access by the civil society organisations to the requested documents should be considered as constituting 'over-riding public interest in disclosure'.

Third, the applicant claims that by taking almost six months to respond to his confirmatory application despite the fact that Regulation No 1049/2001 required providing a response within 15 working days from the request, the defendant acted in violation of Article 7 of Regulation No 1049/2001.

Fourth, the applicant contends that the defendant failed to carry out an examination of the request 'promptly' and therefore acted in violation of Article 8 of Regulation No 1049/2001.

⁽¹⁾ 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