

By their fifth plea in law, the applicants complain of infringement of Article 23 of Regulation No 1/2003 and breach of the obligation to state reasons under the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union. They submit in that respect that the defendant arbitrarily departed from the calculation method laid down in the contested decision when determining the fine.

By their sixth plea in law, the applicants submit that the defendant infringed Article 23 of Regulation No 1/2003 by disregarding the limits of its discretionary power and infringing the principle of proportionality when calculating the fine.

In connection with the seventh plea in law, the applicants allege infringement of the second paragraph of Article 296 TFEU and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union, since the defendant failed to give reasons for essential aspects of the contested decision.

Lastly, by their eighth plea in law the applicants complain that the defendant infringed the applicants' right to be heard in accordance with Article 27 of Regulation No 1/2003 and Article 41(2)(a) of the Charter of Fundamental Rights of the European Union, as it did not give the applicants a hearing in respect of certain essential aspects.

(¹) Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 1, p. 1).

Action brought on 13 September 2010 — Grebenshikova v OHIM — Volvo Trademark (SOLVO)

(Case T-394/10)

(2010/C 301/79)

Language in which the application was lodged: English

Parties

Applicant: Elena Grebenshikova (St. Petersburg, Russian Federation) (represented by: M. Björkenfeldt, lawyer)

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

Other party to the proceedings before the Board of Appeal: Volvo Trademark Holding AB (Göteborg, Sweden)

Form of order sought

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 9 June 2010 in case R 861/2010-1; and

— Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for the Community trade mark: The applicant

Community trade mark concerned: The figurative mark 'SOLVO', for goods in class 9

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: United Kingdom trade mark registrations No 747361 of the figurative mark 'VOLVO', for a wide range of goods and services; United Kingdom trade mark registrations No 1552528, No 1102971, No 1552529 and No 747362 of the word mark 'VOLVO', for a wide range of goods and services; Community trade mark registrations No 2361087 and No 2347193 of the word mark 'VOLVO', for inter alia goods and services in classes 9 and 12

Decision of the Opposition Division: Rejected the opposition in its entirety

Decision of the Board of Appeal: Annulled the decision of the Opposition Division and rejected the trade mark application

Pleas in law: Infringement of Article 8(1)(b) of Council Regulation No 207/2009, as the Board of Appeal wrongly applied the provisions of this Article; violation by the Board of Appeal of a general principle of EU law regarding equal treatment and violation of Article 1 of the Agreement on the Trade-Related Aspects on Intellectual Property Rights (TRIPS), as well as violation of Article 2 of the Paris Convention for the Protection of Industrial Property.

Action brought on 14 September 2010 — Stichting Corporate Europe Observatory v Commission

(Case T-395/10)

(2010/C 301/80)

Language of the case: English

Parties

Applicant: Stichting Corporate Europe Observatory (Amsterdam, the Netherlands) (represented by: S. Crosby, Solicitor, and S. Santoro, lawyer)

Defendant: European Commission

Form of order sought

- annul the implied refusal of the applicant's confirmatory application;
- order the Commission to pay the applicant's costs.

Pleas in law and main arguments

By means of this application the applicant seeks annulment of the Commission implied decision rejecting the applicant's request, pursuant to Regulation No 1049/2001⁽¹⁾, of the access to certain documents relating to the trade negotiations between the EU and India.

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

First, it claims that the Commission infringed the Regulation No 1049/2001 by failing to reply to the confirmatory application within the prescribed time.

Second, the applicant contends that the Commission infringed the Regulation No 1049/2001 and the Treaty by constructively rejecting a confirmatory application without giving any reasons or without giving reasons to the standards required by the Treaty and by the Court.

Third, it submits that by failing to reply to the confirmatory application the Commission infringed an essential procedural requirement and/or committed an error of law.

⁽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.

**Action brought on 8 September 2010 — Zucchetti
Rubinetteria v Commission**

(Case T-396/10)

(2010/C 301/81)

Language of the case: Italian

Parties

Applicant: Zucchetti Rubinetteria SpA (Gozzano, Italy) (represented by: M. Condinanzi and P. Ziotti, lawyers)

Defendant: European Commission

Form of order sought

- Annul the contested decision.
- In the alternative, annul the fine imposed or reduce the amount of the fine.
- In the further alternative, reduce the amount of the fine by granting the request to take account of the attenuating circumstance referred to in Section 29 of the Guidelines on the method of calculating fines.
- In any event, order the Commission to pay the costs.

Pleas in law and main arguments

The decision contested in these proceedings is the same as that in Case T-368/10 *Rubinetteria Cisal v Commission*.

The pleas in law and main arguments are similar to those relied on in that case. In particular, the applicant submits that the products referred to in the decision belong to three separate markets, that Zucchetti is present only on the taps market and that the Commission's decision does not carry out a prior identification of the relevant market. The decision is also defective in terms of its assessment of the geographic extent of the market and the effects of the cartel on the operating conditions on the market.

The applicant adds that the reconstruction of the agreements and/or concerted practices which led the Commission to find that the applicant had participated in a single, complex and continuous infringement of Article 101 TFEU solely on account of its collusive behaviour in Italy is vitiated and does not state the reasons on which the finding is based, since it totally fails to show that the applicant was aware of the unlawful conduct engaged in by the other undertakings allegedly participating in the cartel.

**Action brought on 13 September 2010 — ara v OHIM —
Allrounder (Representation of a sports shoe bearing the
letter A on the side)**

(Case T-397/10)

(2010/C 301/82)

Language in which the application was lodged: German

Parties

Applicant: ara AG (Langenfeld, Germany) (represented by: M. Gail, lawyer)

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