

The applicant submits that, due to the specific characteristics of LCD panels for TV applications, the superficial and episodic nature of the discussions relating to such panels, and the fact that other, more detailed bilateral discussions concerning LCD panels for TV applications involving third parties were disregarded by the Commission in the decision, conduct regarding LCD panels for TV applications should have been analysed and assessed distinctly from the conduct relating to LCD panels for IT applications. In particular, in light of these factors, the applicant submits that the Commission's finding that the infringement extended to LCD panels for TV applications is vitiated by violations of the principle of equal treatment and fundamental procedural requirements and must be annulled or, at the very least, that the Commission ought to have assessed the gravity and duration of any infringement arising from the conduct relating to LCD panels for TV applications separately from the infringement relating to LCD panels for IT applications for the purposes of calculating the fine.

3. Third plea in law, alleging that the relevant value of sales taken by the Commission as the basis for the calculation of the applicant's fine erroneously include sales other than sales of liquid crystal display panels for IT and TV applications.

Sales of LCD panels for medical applications, which are used in the manufacture of medical equipment, were mistakenly included in sales data provided to the Commission during the administrative procedure. Given that medical panels do not qualify as IT or TV panels as defined by the Commission in the decision, the applicant submits that its sales of medical panels must be excluded from the relevant value of sales used to calculate the fine. Sales of so-called LCD open cells were also mistakenly included in sales data provided to the Commission during the administrative procedure. Given that LCD open cells are not finished products and the decision finds no infringement in relation to semi-finished products, the applicant submits that its sales of LCD open cells must be excluded from the relevant value of sales used to calculate the fine.

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**Action brought on 15 February 2011 — Stichting Corporate Europe Observatory v Commission**

(Case T-93/11)

(2011/C 113/37)

*Language of the case: English*

**Parties**

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

*Defendant:* European Commission

**Form of order sought**

- find that the Commission Decision of 6 December 2010 in procedure GESTDEM 2009/2508 infringes Regulation No 1049/2001<sup>(1)</sup> and annul it accordingly; and
- order the Commission to pay the applicant's costs pursuant to Article 87 of the Rules of Procedure of the General Court.

**Pleas in law and main arguments**

By means of his application the applicant seeks, pursuant to Article 263 TFEU, the annulment of the Commission Decision of 6 December 2010 in procedure GESTDEM 2009/2508 refusing to allow full access to several documents relating to the trade negotiations between the EU and India, pursuant to Regulation No 1049/2001.

In support of the action, the applicant relies on one plea in law, alleging misapplication of Article 4(1)(a) third indent of Regulation No 1049/2001, as the international relations exception is inapplicable in this case because all the documents requested are in the public domain.

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<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

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**Action brought on 16 February 2011 — Shang v OHIM (Justing)**

(Case T-103/11)

(2011/C 113/38)

*Language in which the application was lodged: Italian*

**Parties**

*Applicant:* Tiantian Shang (Rome, Italy) (represented by A. Salerni, lawyer)

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

**Form of order sought**

- Annul the contested provision.
- Alter the decision taken by OHIM and recognise the right of seniority enjoyed by national mark RM 2006C002075 in relation to Community trade mark 008391202, including the name and symbol, with all the effects thus entailed as provided for in Regulation No 40/94 on the Community trade mark, as replaced by Regulation No 207/2009.