

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.

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⁽¹⁾ 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.

⁽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 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.

— In the alternative, given that both the national and the Community mark share at the very least a common name element, consisting in the word 'Justing', recognise that the name element of the mark, or the name 'Justing', has a right of seniority, extending to it the retroactive effects of Community registration, with the possible exclusion solely of the graphic illustration surrounding the name.

Pleas in law and main arguments

Community trade mark concerned: Figurative mark containing the word element 'Justing' (registration application No 8 391 203) for goods and services in Classes 18 and 25, in respect of which it is claimed that the national figurative mark (Italian registration No 1 217 203), which also contains the word element 'Justing', has a right of seniority

Decision of the Examiner: Rejected the application claiming seniority of the national figurative mark on the ground that the Italian mark and the Community mark are not the same.

Decision of the Board of Appeal: Dismissed the appeal.

Pleas in law: Misapplication of Article 34 of Regulation No 207/2009 and infringement of Directive 98/71/EC of the European Parliament and of the Council of 13 October 1998 on the legal protection of designs.

Action brought on 17 February 2011 — Ferrari v OHIM (PERLE')

(Case T-104/11)

(2011/C 113/39)

Language in which the application was lodged: Italian

Parties

Applicant: Ferrari F.lli Lunelli SpA (Trento, Italy) (represented by P. Perani and G. Ghisletti, lawyers)

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

Form of order sought

— Annul the decision of the Second Board of Appeal of OHIM in Case R 1249/2010-2 delivered on 8 December 2010 and notified on 17 December 2010.

— Order OHIM to pay the costs of the proceedings.

Pleas in law and main arguments

Community trade mark concerned: International figurative mark (No W 10510030) containing the word element 'PERLE' for goods in Classes 3, 25 and 33 in respect of which the applicant has sought Community protection.

Decision of the Examiner: Rejected in part the request for protection.

Decision of the Board of Appeal: Dismissed the appeal.

Pleas in law: Misapplication of Article 7(1)(b) and (c) and (2) of Regulation No 207/2009.

Order of the General Court of 4 February 2011 — Chi Mei Optoelectronics Europe and Chi Mei Optoelectronics v Commission

(Case T-140/07) ⁽¹⁾

(2011/C 113/40)

Language of the case: English

The President of the First Chamber (extended composition) has ordered that the case be removed from the register.

⁽¹⁾ OJ C 155, 7.7.2007.

Order of the General Court of 16 February 2011 — Commission v Earthscan

(Case T-5/10) ⁽¹⁾

(2011/C 113/41)

Language of the case: English

The President of the Second Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 80, 27.3.2010.

Order of the General Court of 17 February 2011 — Rautaruukki v OHIM — Vigil Pérez (MONTERREY)

(Case T-217/10) ⁽¹⁾

(2011/C 113/42)

Language of the case: English

The President of the Second Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 195, 17.7.2010.