

Operative part of the order

1. *There is no need to adjudicate on the action.*
2. *The European Commission shall bear its own costs and pay those incurred by ClientEarth, the European Federation for Transport and Environment (T&E), the European Environmental Bureau (EEB) and BirdLife International.*

⁽¹⁾ OJ C 134, 22.5.2010.

Order of the General Court of 9 November 2011 — ClientEarth and Others v Commission**(Case T-449/10)** ⁽¹⁾

(Access to documents of the institutions — Regulation (EC) No 1049/2001 — Implied refusal of access — Interest in bringing proceedings — Express decision adopted after the action was brought — No need to adjudicate)

(2012/C 6/31)

*Language of the case: English***Parties**

Applicants: ClientEarth (London, United Kingdom); European Federation for Transport and Environment (T&E) (Brussels, Belgium); European Environmental Bureau (EEB) (Brussels); and BirdLife International (Brussels) (represented by: S. Hockman QC, and by P. Kirch, lawyer)

Defendant: European Commission (represented by: K. Herrmann and C. ten Dam, acting as Agents)

Re:

Application for annulment of the implied decision of the Commission of 20 July 2010 refusing access to certain documents relating to drafts of a report on the Global Trade and Environmental Impact Study of the Biofuels Mandate of the European Union.

Operative part of the order

1. *There is no need to adjudicate on the action.*
2. *The European Commission shall bear its own costs and pay those incurred by ClientEarth, the European Federation for Transport and Environment (T&E), the European Environmental Bureau (EEB) and BirdLife International.*

⁽¹⁾ OJ C 346, 18.12.2010.

Order of the General Court of 9 November 2011 — Glaxo Group v OHIM — Farmodiética (ADVANCE)**(Case T-243/11)** ⁽¹⁾

(Community trade mark — Applicant represented by a lawyer who is a not a third person — Inadmissibility)

(2012/C 6/32)

*Language of the case: English***Parties**

Applicant: Glaxo Group Ltd (Greenford, United Kingdom) (represented by: O. Benito and C. Mansell, Solicitors)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: P. Geroulakos, Agent)

Other party to the proceedings before the Board of Appeal of OHIM: Farmodiética — Cosmética, Dietética e Produtos Farmacêuticos, L^{da} (Estarda de S. Marcos, Portugal)

Re:

Action brought against the decision of the Fourth Board of Appeal of OHIM of 25 February 2011 (Case R 665/2010-4), concerning opposition proceedings between Farmodiética — Cosmética, Dietética e Produtos Farmacêuticos, L^{da} and Glaxo Group Ltd.

Operative part of the order

1. *The action is dismissed as inadmissible.*
2. *Glaxo Group Ltd shall pay the costs.*

⁽¹⁾ OJ C 194, 2.7.2011.

Action brought on 12 October 2011 — Spectrum Brands (UK) v OHIM — Philips (STEAM GLIDE)**(Case T-544/11)**

(2012/C 6/33)

*Language in which the application was lodged: English***Parties**

Applicant: Spectrum Brands (UK) Ltd (Manchester, United Kingdom) (represented by: S. Malynicz, Barrister)

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

Other party to the proceedings before the Board of Appeal: Koninklijke Philips Electronics NV (Eindhoven, Netherlands)

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 14 July 2011 in case R 1289/2010-1; and
- Order the defendant and the other party to the proceedings before the Board of Appeal to bear their own costs and those incurred by the applicant.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The word mark 'STEAM GLIDE', for goods in class 9 — Community trade mark registration No 5167382

Proprietor of the Community trade mark: The applicant

Applicant for the declaration of invalidity of the Community trade mark: The other party to the proceedings before the Board of Appeal

Grounds for the application for a declaration of invalidity: The other party to the proceedings before the Board of Appeal filed a request for a declaration of invalidity on the basis of Article 52(1)(a) in conjunction with the absolute grounds of refusal of Article 7(1)(a), (b) and (c) of Council Regulation (EC) No 207/2009

Decision of the Cancellation Division: Rejected the request for a declaration of invalidity

Decision of the Board of Appeal: Annulled the contested decision and declared the Community trade mark registration invalid

Pleas in law: Infringement of Article 7(1)(c) of Council Regulation No 207/2009, as the Board of Appeal erred in relation to the meaning and syntax of the mark and its component parts, as well as its aptness or otherwise as an immediate and direct descriptive term for the goods in question. Further the Board of Appeal failed to consider the general interest that underlies Article 7(1)(c) CTMR. Infringement of Article 7(1)(b) of Council Regulation No 207/2009, as the Board of Appeal failed to consider the essential function of the mark, failed to consider the perspective of the average consumer, failed to consider Article 7(1)(b) separately from Article 7(1)(c), failed to consider the general interest that underlies Article 7(1)(b) CTMR and failed to analyse the mark as a whole.

Action brought on 19 October 2011 — MIP Metro v OHIM — Real Seguros (real,- QUALITY)

(Case T-548/11)

(2012/C 6/34)

Language in which the application was lodged: English

Parties

Applicant: MIP Metro Group Intellectual Property GmbH & Co. KG (Düsseldorf, Germany) (represented by: J. Plate and R. Kaase, lawyers)

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

Other party to the proceedings before the Board of Appeal: Real Seguros, SA (Porto, Portugal)

Form of order sought

- Stay the proceedings until the final decision of the Portuguese Trademark Office on the request of revocation which has been filed by the applicant against the earlier Portuguese trademark registrations No 249791, No 249793 and No 254390; In case that the request for the stay of proceedings is not granted, to continue the proceeding and to;
- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 August 2011 in case R 114/2011-4; and
- Order the defendant to pay the costs, including the costs of the appeal proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The international trade mark registration No W 983683 of the figurative mark 'real,- QUALITY', in red, blue and beige, for services in class 36

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal