

Pleas in law and main arguments

Applicant for a Community trade mark: Indesit Company SpA

Community trade mark concerned: Figurative mark 'quadrio' for goods in Class 11 — Application No 7 313 158

Proprietor of the mark or sign cited in the opposition proceedings: ILVE-Industria Lavorazione Veneta Elettrodomestici SpA

Mark or sign cited in opposition: Word mark 'QUADRA' for goods in Class 11

Decision of the Opposition Division: Opposition upheld

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Infringement of Article 8(1)(b) and (5) of Regulation No 207/2009

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Action brought on 28 May 2012 — Saobraćajni institut CIP v Commission

(Case T-219/12)

(2012/C 227/40)

Language of the case: English

Parties

Applicant: Saobraćajni institut CIP d.o.o. (Belgrade, Serbia) (represented by: A. Lojpur, lawyer)

Defendant: European Commission

Form of order sought

— Annul a call for tender published on 27 March 2012, concerning preparation of technical documentation for the rail modernization project 'Doubling and upgrading of existing railway corridor Xb, section Novi Sad (excluding the junction)–Subotica–Hungarian border' in accordance with EU interoperability standards, AGC, AGTC and the SEEC Agreement (OJ 2012/S 60-096517), excluding the applicant from participating in it;

— Award damages for the alleged pecuniary loss;

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

Pleas in law and main arguments

In support of the action, the applicant relies on three pleas in law.

1. First plea in law, alleging

— that there was no legal ground for *a priori* exclusion of the applicant in participating in a call for tender in question since there was no conflict of interest;

2. Second plea in law, alleging

— that the applicant's exclusion from tender is contrary to IPA Regulation ⁽¹⁾;

3. Third plea in law, alleging

— that the conditions for awarding the contract were unlawful.

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⁽¹⁾ Council Regulation (EC) No 1085/2006 of 17.7.2006 establishing an Instrument for Pre-Accession Assistance (IPA) (OJ L 210, p. 82)

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Action brought on 24 May 2012 — National Trust for Scotland v OHIM — Comhairle na Eilean Siar (ST KILDA)

(Case T-222/12)

(2012/C 227/41)

Language in which the application was lodged: English

Parties

Applicant: National Trust for Scotland (Edinburgh, United Kingdom) (represented by: J. MacKenzie, Solicitor)

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

Other party to the proceedings before the Board of Appeal: Comhairle na Eilean Siar (Isle of Lewis, United Kingdom)

Form of order sought

— that the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade marks and Designs) dated 26 March 2012, in case R 310/2011-4, should be annulled in its entirety and that the application be refused;

— that OHIM and any intervening parties in this Appeal shall bear their own costs and pay the Applicant's costs of these proceedings and those of the Appeal procedure before the Board of Appeal.

Pleas in law and main arguments

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

Community trade mark concerned: The word mark ST KILDA for goods and services in classes 9, 16, 35, 39, 41 and 43 — Community trade mark application No 8 283 871

Proprietor of the mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: Grounds laid down in Article 8(4) of Council Regulation No 207/2009, more particularly a non-registered trade mark protected in the UK, as well as third party observations under Article 40 of Council Regulation No 207/2009

Decision of the Opposition Division: Rejected the opposition

Decision of the Board of Appeal: Dismissed the appeal

Pleas in law:

— Infringement of Article 7(1)(b) and (c) of Council Regulation No 207/2009;

— Infringement of Article 8(4) of Council Regulation No 207/2009.

Action brought on 28 May 2012 — Ntouvas v ECDC

(Case T-223/12)

(2012/C 227/42)

Language of the case: English

Parties

Applicant: Ioannis Ntouvas (Sundbyberg, Sweden) (represented by: E. Mylonas, lawyer)

Defendant: European Centre for Disease Prevention and Control (Stockholm, Sweden)

Form of order sought

— Annul the decision of 27 March 2012 of the defendant to refuse the applicant access to final reports of audits carried out on ECDC by the Internal Audit Service of the European Commission; and

— Order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging infringement of an essential procedural requirement (obligation to state reasons), thereby infringing Article 8(1) of Regulation (EC) No 1049/2001⁽¹⁾ and Article 41(2)(c) of the Charter of Fundamental Rights of the European Union, as:

— The defendant stated only abstract and general reasons for refusing access to any, and all, reports it holds of audits carried out on ECDC by the Internal Audit Service of the European Commission; it moreover failed to demonstrate that an overriding public interest in disclosure did not exist;

— According to settled case-law, reasons stated for refusing access to documents must be concrete and individual, as well as specific and describe effectively the eventual interest prevailing over the applicant's right of access, while demonstrating the non-existence of an overriding public interest in disclosure.

2. Second plea in law, alleging infringement of the Treaties (Art. 15(3) TFEU) and of a rule of law (Regulation (EC) No 1049/2001) relating to their application, as:

— By failing to state appropriate and sufficient reasons for refusing to disclose the requested documents, the defendant also breached its obligation under Articles 2(1) and 8(1) of Regulation (EC) No 1049/2001 and Article 15(3) TFEU to grant the applicant access to the requested documents within 15 working days from registration of his confirmatory application.

⁽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 29 May 2012 — Lidl Stiftung v OHIM — LIDL MUSIC (LIDL express)

(Case T-225/12)

(2012/C 227/43)

Language in which the application was lodged: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: M. Schaeffer, M. Wolter and A. Marx, lawyers)

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

Other party to the proceedings before the Board of Appeal: LIDL MUSIC, spol. s r.o. (Brno, Czech Republic)

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 21 March 2012 (R 2379/2010-1);

— order the defendant to pay the costs.