

4. Fourth plea in law, alleging that the Council infringed the principle of sound administration and the applicants' rights of defence by failing to examine the arguments raised by the applicants during the investigation and to provide the applicants with the disclosure of essential facts and considerations concerning the case, the duty to state reasons and the principle of sound administration and the rights of defence of the applicants by providing the Member States with information on the case prior to receiving any comments from the applicants and by consulting the Anti-Dumping Advisory Committee before the applicants had been heard.

(¹) Council Regulation (EC) No 1225/2009 on Protection Against Dumped Imports from Countries not Members of the European Community (OJ 2009 L343, p. 51), as amended.

Action brought on 28 September 2012 — Steiff v OHIM (Metal button in the middle section of the ear of a soft toy)

(Case T-433/12)

(2012/C 366/78)

Language of the case: German

Parties

Applicant: Margarete Steiff GmbH (Giengen an der Brenz, Germany) (represented by D. Fissl, lawyer)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 23 July 2012 in Case R 1693/2011-1;

— Annul OHIM's rejection of Community trade mark application No 9 439 613;

— Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the positional mark with which protection is claimed for a gleaming or matt, round metal button fastened to the middle section of the ear of a soft toy for goods in Class 28 — Community trade mark application No 9 439 613

Decision of the Examiner: the application was rejected

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: infringement of Article 7(1)(b) of Regulation No 207/2009

Action brought on 28 September 2012 — Steiff v OHIM (Fabric tag with metal button in the middle section of the ear of a soft toy)

(Case T-434/12)

(2012/C 366/79)

Language of the case: German

Parties

Applicant: Margarete Steiff GmbH (Giengen an der Brenz, Germany) (represented by D. Fissl, lawyer)

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

Form of order sought

The applicant claims that the Court should:

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 July 2012 in Case No R 1692/2011-1;

— Annul OHIM's rejection of Community trade mark application No 9 439 654;

— Order OHIM to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: the positional mark with which protection is claimed for a rectangular, elongated fabric tag fastened to the middle section of the ear of a soft toy by means of a gleaming or matt, round metal button for goods in Class 28 — Community trade mark application No 9 439 654

Decision of the Examiner: the application was rejected

Decision of the Board of Appeal: the appeal was dismissed

Pleas in law: infringement of Article 7(1)(b) of Regulation No 207/2009

Action brought on 5 October 2012 — Changmao Biochemical Engineering v Council

(Case T-442/12)

(2012/C 366/80)

Language of the case: English

Parties

Applicant: Changmao Biochemical Engineering Co. Ltd (Changzhou, China) (represented by: E. Vermulst and S. Van Cutsem, lawyers)

Defendant: Council of the European Union

Form of order sought

— Annul Council Implementing Regulation (EU) No 626/2012 of 26 June 2012 amending Implementing Regulation (EU) No 349/2012 imposing a definitive anti-dumping duty on imports of tartaric acid originating in the People's Republic of China (OJ 2012 L 182, p. 1) in so far as it relates to the applicant; and

— Order the defendant to pay the applicant's costs.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant committed a manifest error of appraisal and an infringement of Article 2(7)(c), first indent, of Council Regulation (EC) No 1225/2009 of 30 November 2009 on protection against dumped imports from countries not members of the European Community (OJ 2009 L 343, p. 51) by rejecting the market economy treatment claim of the applicant on the basis of alleged distortion of the price of the raw material benzene. The Union institutions committed a manifest error of appraisal as they compared the prices of benzene produced from coke with benzene produced from petroleum, and based their assessment on an export duty on benzene, which they acknowledged was not in force. In addition, the institutions infringed Article 2(7)(c), first indent, of Council Regulation (EC) No 1225/2009 by considering that the absence of VAT refund on exports of benzene constituted significant State interference in the applicant's business decisions.

2. Second plea in law, alleging that the defendant committed a manifest error of appraisal and infringement of Article 11(3) of Council Regulation (EC) No 1225/2009 since the Council should have granted market economy treatment to the applicant during the interim review and therefore erroneously concluded that the circumstances with regard to dumping have changed significantly and that these changes were of a lasting nature.
3. Third plea in law, alleging that the defendant infringed the duty to give reasons, Article 296 TFEU and Articles 6(7), 11(3), 14(2) and 18(4) of Council Regulation (EC) No 1225/2009 by failing to take into account and state the reasons for rejection of the comments and evidence provided by the applicant and by failing to unequivocally state its reasoning concerning the alleged distortion of the price of the raw material benzene.
4. Fourth plea in law, alleging that the defendant infringed the second subparagraph of Article 2(7)(c) of Council Regulation (EC) No 1225/2009 by failing to take a decision on market economy treatment within three months from the initiation of the investigation.
5. Fifth plea in law, alleging that the defendant infringed Article 20(2) of Council Regulation (EC) No 1225/2009 and the rights of the defence by refusing to provide disclosure of the details on the basis of which the normal value was calculated.

Order of the General Court of 3 October 2012 — 3M Pumps v OHIM — 3M (3M Pumps)

(Case T-25/12) ⁽¹⁾

(2012/C 366/81)

Language of the case: Italian

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

⁽¹⁾ OJ C 98, 31.3.2012.