

— used irrelevant criteria such as that the information constitutes material facts of the alleged infringement; and

— erred in its assessment of whether there are overriding reasons permitting disclosure, in particular in light of the Commission's own approach of refusing access to documents containing similar information and the case law of the European Courts, which creates a general presumption that such information is confidential and cannot be disclosed to the public.

3. Third plea in law, alleging that the defendant has infringed EU law by violating the principle of equal treatment by adopting an unfavourable approach in the case of the applicant as compared to undertakings in a similar position in other recent or contemporaneous proceedings.

4. Fourth plea in law, alleging that the defendant has infringed EU law by violating the principle of legitimate expectations in that it has breached the applicant's legitimate expectation to have confidential information obtained by or provided to the Commission in the context of competition proceedings protected from disclosure.

5. Fifth plea in law, alleging that the defendant has infringed EU law (in particular Article 339 TFEU, Article 28 of Council Regulation (EC) No 1/2003, Article 8 of the Hearing Officer Mandate) by deciding to publish information which is capable of identifying specific individuals.

6. Sixth plea in law, alleging that the defendant has infringed the principle of proportionality and Regulation (EC) No 1049/2001⁽³⁾ (in particular Article 4(2) thereof) by adopting a disproportionate means of disclosing the information in question and circumventing the principles and procedures of the said regulation.

⁽¹⁾ Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings, (OJ 2011 L 275, p. 29)

⁽²⁾ Council Regulation (EC) No 1/2003 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ 2003 L 001, p. 1)

⁽³⁾ 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 22 October 2012 — Popp and Zech v OHIM — Müller-Boré & Partner (MB)

(Case T-463/12)

(2012/C 379/52)

Language in which the application was lodged: German

Parties

Applicants: Eugen Popp (Munich, Germany) and Stefan M. Zech (Munich) (represented by: C. Rohnke and M. Jacob, lawyers)

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

Other party to the proceedings before the Board of Appeal: Müller-Boré & Partner (Munich, Germany)

Form of order sought

The applicants claim 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 R 506/2011-1;

— Order the defendant to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: the applicant

Community trade mark concerned: the word mark 'MB' for services in Class 42 — Community trade mark application No 7 369 771

Proprietor of the mark or sign cited in the opposition proceedings: Müller-Boré & Partner

Mark or sign cited in opposition: the word mark MBP and the national and Community trade mark, including the word element 'MB&P', for services in Classes 35 and 42

Decision of the Opposition Division: rejection of the opposition

Decision of the Board of Appeal: the appeal was upheld and the application was rejected

Pleas in law:

— Infringement of Article 42(2) and Article 15(1) of Regulation No 207/2009

— Infringement of Article 8(1)(b) of Regulation No 207/2009

Appeal brought on 15 October 2012 by Luigi Marcuccio against the order of the Civil Service Tribunal of 3 August 2012 in Case F-57/12 R, Marcuccio v Commission

(Case T-464/12 P (R))

(2012/C 379/53)

Language of the case: Italian

Parties

Appellant: Luigi Marcuccio (Tricase, Italy) (represented by G. Cipressa, lawyer)

Other party to the proceedings: European Commission

Form of order sought by the appellant

— Set aside the order under appeal in its entirety and without exception.

Pleas in law and main arguments

The present appeal is brought against the decision of the President of the Civil Service Tribunal of 3 August 2012 rejecting the application for suspension of the operation of: (i) the Commission's decision rejecting the appellant's request for payment of the sum of EUR 1 661, unlawfully deducted, in the appellant's opinion, from his invalidity allowance; (ii) the Commission's implied decision dismissing the appellant's complaint; and (iii) any decision on the basis of which the Commission deducted the sum of EUR 1 661 from the appellant's invalidity allowance for the months of June, July, August and September 2011.

The appellant relies on two grounds of appeal.

— First ground, alleging absolute failure to state reasons in the order under appeal, distortion and misrepresentation of the facts, reasons which are manifestly illogical, unreasonable and arbitrary, as well as manifest error of assessment with regard to those reasons, in particular with regard to paragraphs 22 to 28 of the order.

— Second ground, alleging incorrect, false and unreasonable interpretation and clear breach of Article 86 of the Rules of Procedure of the Civil Service Tribunal, with regard to the order to 'pay to the Tribunal the sum of EUR 1 000'.

Action brought on 19 October 2012 — AGC Glass Europe and Others v Commission

(Case T-465/12)

(2012/C 379/54)

Language of the case: English

Parties

Applicants: AGC Glass Europe (Brussels, Belgium); AGC Automotive Europe (Fleurus, Belgium); AGC France (Boussois, France); AGC Flat Glass Italia Srl (Cuneo, Italy); AGC Glass UK Ltd (Northampton, United Kingdom); and AGC Glass Germany GmbH (Wegberg, Germany) (represented by: L. Garzaniti, J. Blockx and P. Niggemann, lawyers, and S. Ryan, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— Annul Article 3 of the Decision of the European Commission of 6 August 2012 on the rejection, pursuant to Article 8 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings, of a request for confidential treatment submitted by the applicants in relation to Case COMP/39.125 — *Carglass*;

— Order the defendant to pay the costs of the proceedings; and

— Take any other measures that the General Court considers appropriate.

Pleas in law and main arguments

In support of the action, the applicants rely on six pleas in law.