

Action brought on 11 February 2013 — InterMune UK and Others v EMA

(Case T-73/13)

(2013/C 114/60)

Language of the case: English

Parties

Applicants: InterMune UK Ltd (London, United Kingdom); InterMune, Inc. (Brisbane, United States); and InterMune International AG (Muttentz, Switzerland) (represented by: I. Dodds-Smith and A. Williams, Solicitors, T. de la Mare, Barrister, and F. Campbell, lawyer)

Defendant: European Medicines Agency

Form of order sought

The applicants claim that the Court should:

- Annul the decision communicated by the defendant to the applicants on 15 January 2013 to release certain information under Regulation (EC) No 1049/2001⁽¹⁾, insofar as that decision concerns the release of information previously submitted by the applicants to the defendant which is not already in the public domain; and
- Order the defendant to pay the applicants' legal and other costs and expenses in relation to this matter.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant has failed properly to engage in the balancing exercise which it is required to conduct under Article 4.2 of Regulation (EC) No 1049/2001, in the sense of assessing whether there is, in fact, any public interest in disclosure of the disputed information which overrides the need to protect the applicants' commercial interests from the substantial damage which would be caused by such disclosure.
2. Second plea in law, alleging that the defendant has failed properly to take into account other important factors relevant to the balancing exercise required by law, including:
 - the requirements of specific EU legislation (notably Regulation (EC) No 726/2004⁽²⁾, in particular its Article 14.11);
 - the interpretative obligations placed upon all EU institutions when construing EU legislation by Article 39.3

of TRIPS (Agreement on Trade-Related Aspects of Intellectual Property Rights);

- the fundamental rights to property and to privacy, as protected by the Charter of Fundamental Rights of the European Union, assessed in light of a careful consideration of all relevant facts so as to enable a fact-sensitive proportionality analysis; and
- the duty to follow its own published guidance and policies on the importance of protecting commercially confidential information.

3. Third plea in law, alleging that if the defendant had properly carried out the required balancing exercise, and properly considered all relevant factors, the only lawful, proportionate and/or reasonable conclusion would have been that the disputed information should not be released.

⁽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)

⁽²⁾ Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (OJ 2004 L 136, p. 1)

Action brought on 15 February 2013 — United Kingdom v ECB

(Case T-93/13)

(2013/C 114/61)

Language of the case: English

Parties

Applicant: United Kingdom of Great Britain and Northern Ireland (represented by: K. Beal, QC, and E. Jenkinson, agent)

Defendant: European Central Bank

Form of order sought

The applicant claims that the Court should:

- Partially annul the Decision of the European Central Bank of 11 December 2012 amending decision ECB/2007/7 concerning the terms and conditions of TARGET2-ECB (Decision ECB/2012/31) (OJ 2013 L 13, p. 8);