

Other party to the proceedings before the Board of Appeal: Nordbrand Nordhausen GmbH (Nordhausen, Germany)

Form of order sought

The applicant claims that the Court should:

- annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 17 March 2014 in Case R 1302/2013-4; and
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark KISS for goods in Class 33 — Community trade mark application No 10 620 565

Proprietor of the mark or sign cited in the opposition proceedings: Nordbrand Nordhausen GmbH

Mark or sign cited in opposition: The word mark CRISS for goods in Class 33

Decision of the Opposition Division: The opposition was rejected

Decision of the Board of Appeal: The decision of the Opposition Division was annulled and the Community trade mark application rejected

Pleas in law:

- Infringement of Rule 20(7)(c) in conjunction with Rule 50(1) of Regulation No 2868/95 in conjunction with Article 55 (1) of Regulation No 207/2009;
- Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 2 June 2014 — Secolux v Commission

(Case T-363/14)

(2014/C 253/61)

Language of the case: French

Parties

Applicant: Secolux, Association pour le contrôle de la sécurité de la construction (Capellen, Luxembourg) (represented by: N. Prüm-Carré, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decisions of 1 and 14 April 2014 by the Secretary General of the European Commission refusing to grant access to all the documents relating to the contract award procedure No 02/2013/01L ‘Safety checks’ for lot 1 and, in particular, the tender of the successful tenderer, the price schedule, the evaluation report of that offer and also the service contract entered into with the contracting authority;
- order European Commission to pay all the costs.

Pleas in law and main arguments

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

1. First plea, alleging failure to respond to the request to be provided with all the documents relating to the contract award procedure, since it responded only to the requests for access relating to the evaluation report, the tender of the successful tenderer, the price schedule, and the service contract entered into with the successful tenderer.
2. Second plea, alleging breach of the provisions of Article 4 of Regulation No 1049/2001 ⁽¹⁾.
 - The refusal to provide access to the documents on the ground that it would undermine the protection of privacy and integrity of the individual within the meaning of Article 4(1)(b) of Regulation No 1049/2001 does not constitute a legitimate reason, given that an anonymous version could have been provided.
 - The application of the exception relating to the protection of commercial interests within the meaning of the first indent of Article 4(2) of Regulation No 1049/2001 is not justified, given that the evaluation report and the price schedule do not contain any information relating to technical resources or personnel and do reveal any know-how or technical expertise.
 - The decision-making process is not undermined within the meaning of Article 4(3) of Regulation No 1049/2001 since (i) the award decision had been taken and the service contract had been signed with the successful tenderer when the decision refusing access was taken and (ii) the documents requested did not constitute opinions within the meaning of the second paragraph of Article 4(3) of Regulation No 1049/2001, and since, in any event, the disclosure of the documents is not liable to undermine the Commission's decision-making process.
 - There is an overriding public interest, namely, the principle of transparency in the area of the implementation of the budget.
 - It has not been shown that partial communication of the documents within the meaning of Article 4(6) of Regulation No 1049/2001 was not possible.
3. Third plea, alleging failure to provide a real reason for the decisions taken.

⁽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 27 May 2014 — CBM Creative Brands Marken v OHIM — Aeronautica Militare — Stato Maggiore (TRECOLORE)

(Case T-365/14)

(2014/C 253/62)

Language in which the application was lodged: English

Parties

Applicant: CBM Creative Brands Marken GmbH (Zürich, Switzerland) (represented by: U. Lüken, M. Grundmann and N. Kerger, lawyers)

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

Other party to the proceedings before the Board of Appeal: Aeronautica Militare — Stato Maggiore (Rome, Italy)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fifth Board of Appeal of April 1, 2014, in Case R 411/2013-5 in so far as the Fifth Board of Appeal annuls the decision of the Opposition Division, upholds the opposition and rejects the Application No 009 877 416 in regard of the goods in classes 18 and 25 and in regard of the services 'Retail services, including via websites and teleshopping, in relation to clothing, footwear, headgear, sunglasses, precious metals and their alloys and goods in precious metals or coated therewith, jewellery, precious stones, horological and chronometric instruments, leather and imitations of leather, and goods made of these materials, animal skins, hides, trunks and travelling bags, bags, handbags, wallets, purses, key cases, rucksacks, pouches, umbrellas, parasols and walking sticks, whips, harness and saddlery' of class 35;