

In the alternative, the applicant states that the exceptions covered by Article 4 preclude the disclosure of the requested document only if there is no public interest justifying disclosure. It submits that fundamental rights, in particular the rights of the defence, are capable of constituting such a public interest.

In its decision rejecting the confirmatory application, the Commission restricted itself to providing a purely general statement of reasons since it does not explain how partial access to the documents in question would jeopardise the interest of the protection of personal data and of the privacy of the individuals referred to in them.

The applicant submits, lastly, that the unlawful acts committed by the Commission likewise constitute unlawful conduct that has caused him actual and certain damage.

Action brought on 15 December 2016 — Nf Nails In Vogue v EUIPO — Nails & Beauty (NAILS FACTORY)

(Case T-886/16)

(2017/C 063/41)

Language in which the application was lodged: Spanish

Parties

Applicant: Nf Nails In Vogue, SL (Arganda del Rey, Spain) (represented by: L. Jáudenes Sánchez, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Nails & Beauty Vertriebs GmbH (Kiel, Germany)

Details of the proceedings before EUIPO

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union figurative mark containing the word elements 'NAILS FACTORY' — Application for registration No 13 528 336

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 5 October 2016 in Case R 202/2016-1

Form of order sought

The applicant claims that the Court should:

- declare the action admissible;
- annul the contested decision and uphold the Opposition Division's decision;
- order EUIPO to pay the costs, including those incurred in the proceedings before the Board of Appeal.

Plea in law

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