

**DECISION OF THE BOARD OF APPEAL
OF THE EUROPEAN CHEMICALS AGENCY**

15 December 2014

(Withdrawal of appeal by appellant)

Case number	A-002-2014
Language of the case	English
Appellant	Richard Anton KG Germany
Representative	Martin Ahlhaus Noerr LLP Munich Germany
Contested Decision	SME (2013) 4524 of 21 January 2014 adopted by the European Chemicals Agency (the 'Agency') pursuant to Commission Regulation (EC) No 340/2008 on the fees and charges payable to the European Chemicals Agency pursuant to Regulation (EC) No 1907/2006 of the European Parliament and of the Council on the Registration, Evaluation, Authorisation and Restriction of Chemicals (REACH), (OJ L 107, 17.4.2008, p. 6; as amended by Commission Implementing Regulation (EU) No 254/2013 (OJ L 79, 21.3.2013, p. 7)) and Decision MB/D/29/2010 of the Agency's Management Board of 12 November 2010, as amended by Decision MB/21/2012/D; and Agency's invoice No. 10046845 of 23 January 2014

THE BOARD OF APPEAL

composed of Mercedes ORTUÑO (Chairman), Andrew FASEY (Technically Qualified Member) and Barry DOHERTY (Legally Qualified Member and Rapporteur)

Registrar: Sari HAUKKA

gives the following

Decision

1. On 17 April 2014, the Appellant filed an appeal at the Registry of the Board of Appeal against the Contested Decision and invoice No. 10046845 of 23 January 2014 levying an administrative charge (the 'invoice'), seeking their annulment.
2. On 23 June 2014, the Agency submitted the Defence, arguing principally that the appeal is inadmissible as the Contested Decision cannot be appealed to the Board of Appeal. With its subsidiary claim, the Agency requested the Board of Appeal to stay the proceedings before it until the General Court has decided in Case T-208/14 (Action brought on 28 March 2014 by Richard Anton KG against European Chemicals Agency, OJ C 202, 30.6.2014, p. 25). In those proceedings the Appellant brought a legal action against the Contested Decision and the invoice before the General Court.
3. On 28 July 2014, the Appellant submitted observations on the Defence and proposed that these proceedings should be stayed until the General Court has decided in Case T-177/12 (Spraylat GmbH v European Chemicals Agency, OJ C 174, 16.6.2012, p. 26).
4. On 2 September 2014, the Board of Appeal decided to stay the proceedings until such time as the General Court has delivered its judgment in Case T-177/12. The General Court delivered its judgment on 2 October 2014.
5. On 8 October 2014, the Board of Appeal invited the Parties to submit their observations with regard to the consequences for the present appeal proceedings of the judgment in Case T-177/12.
6. By telefax received at the Registry of the Board of Appeal on 22 October 2014, the Appellant informed the Board of Appeal that it has decided not to comment on the consequences of the judgment in Case T-177/12, as it has in the meantime reached an agreement with the Agency to settle the issue.
7. Also on 22 October 2014, the Agency informed the Board of Appeal that the settlement negotiations with the Appellant have advanced to a final stage and requested the Board of Appeal to stay the proceedings. The Board of Appeal decided on 29 October 2014 to stay the present proceedings until 30 November 2014.
8. On 9 December 2014, the Appellant informed the Board of Appeal that it reached a settlement with the Agency and is therefore withdrawing its appeal.
9. In view of the Appellant's decision to withdraw the appeal, the present appeal case should be closed.
10. Pursuant to Article 10(4) of the Fee Regulation a refund of the fee levied for submission of an appeal only occurs if the Executive Director of the Agency rectifies the contested decision or if the appeal is decided in favour of the appellant. Since neither of these alternatives applies in the present case the appeal fee is not refunded.

ORDER

On those grounds,

THE BOARD OF APPEAL

hereby:

Closes appeal case A-002-2014.

Mercedes ORTUÑO
Chairman of the Board of Appeal

Sari HAUKKA
Registrar of the Board of Appeal