

**Action brought on 12 December 2022 — Contorno Textil v EUIPO — Harmont & Blaine  
(GILBERT TECKEL)**

**(Case T-773/22)**

(2023/C 45/32)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Contorno Textil, SL (Almedinilla, Spain) (represented by: E. Sugrañes Coca and C. Sotomayor Garcia, lawyers)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* Harmont & Blaine SpA (Caivano, Italy)

**Details of the proceedings before EUIPO**

*Applicant of the trade mark at issue:* Applicant before the General Court

*Trade mark at issue:* Application for European Union figurative mark GILBERT TECKEL — Application for registration No 18 148 635

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 10 October 2022 in Case R 372/2022-4

**Form of order sought**

The applicant claims that the Court should:

— alter the contested decision by stating that application for registration n°18 148 635 must be granted for all goods in class 25 due to the lack of likelihood of confusion between the trade marks under comparison, after giving due consideration to the differences between the signs;

order EUIPO to pay the costs; or, in the alternative,

— annul the contested decision;

— order EUIPO to pay the costs.

**Pleas in law**

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of the principles of equal treatment and legal certainty.

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**Action brought on 13 December 2022 — TP v Commission**

**(Case T-776/22)**

(2023/C 45/33)

*Language of the case: English*

**Parties**

*Applicant:* TP (represented by: T. Faber, F. Bonke and I. Sauvagnac, lawyers)

*Defendant:* European Commission

### Form of order sought

The applicant claim that the Court should:

- annul the decision issued by the Commission’s authorising officer by delegation, the Director General of DG Reform, on its exclusion from participating in award procedures governed by Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council, <sup>(1)</sup> from being selected for implementing European Union funds and from participating in award procedures governed by Council Regulation (EU) 2018/1877, <sup>(2)</sup> adopted on 1 October 2022 and notified to the applicant on 3 October 2022 (hereafter the ‘Contested Decision’);
- in the alternative, substitute the Contested Decision with a moderate financial penalty commensurate with the applicant’s limited involvement in the execution of the Project;
- order the European Commission to pay compensation to the applicant for the loss suffered due to the Contested Decision; and
- in any event, order the European Commission to pay for the costs.

### Pleas in law and main arguments

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

1. First plea in law, alleging that the Contested Decision breaches Article 136(1) of Regulation 2018/1046 by failing to establish the relevant facts necessary for the issuance of an exclusion decision against the applicant, not the least by failing to establish that the applicant — individually — would have committed significant deficiencies in complying with the main obligations in the implementation of the contract, concluded between the consortium it was part of and the Commission, as required under Article 136(1) of Regulation 2018/1046.
2. Second plea in law, alleging that the Contested Decision breaches Article 136(3) of the Regulation 2018/1046 and the general principle of proportionality, in that:
  - the exclusion sanction against the applicant does not achieve the purpose of the Early Detection and Exclusion System provided for in Regulation 2018/1046,
  - the exclusion sanction against the applicant disregards its subordinate role in the execution of the project of construction of sewerage and water distribution networks in the city of Famagusta (Cyprus).
3. Third plea in law, alleging that the Contested Decision breaches the general principle of legal certainty by retroactively upholding an exclusion penalty under Regulation 2018/1046, which is more severe than the financial penalty that the aforementioned authorising officer would have upheld under Regulation (EU, EURATOM) No. 966/2012 of the European Parliament and of the Council. <sup>(3)</sup>

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<sup>(1)</sup> Regulation (EU, Euratom) 2018/1046 of the European Parliament and of the Council of 18 July 2018 on the financial rules applicable to the general budget of the Union, amending Regulations (EU) No 1296/2013, (EU) No 1301/2013, (EU) No 1303/2013, (EU) No 1304/2013, (EU) No 1309/2013, (EU) No 1316/2013, (EU) No 223/2014, (EU) No 283/2014, and Decision No 541/2014/EU and repealing Regulation (EU, Euratom) No 966/2012 (OJ 2018, L 193, p. 1).

<sup>(2)</sup> Council Regulation (EU) 2018/1877 of 26 November 2018 on the financial regulation applicable to the 11<sup>th</sup> European Development Fund, and repealing Regulation (EU) 2015/323 (OJ 2018 L 307, p. 1).

<sup>(3)</sup> Regulation (EU, Euratom) No 966/2012 of the European Parliament and of the Council of 25 October 2012 on the financial rules applicable to the general budget of the Union and repealing Council Regulation (EC, Euratom) No 1605/2002 (OJ 2012 L 298, p. 1).