

Action brought on 13 December 2022 — TUI Holding v EUIPO — inCruises International (INCRUISES)

(Case T-780/22)

(2023/C 45/36)

Language in which the application was lodged: English

Parties

Applicant: TUI Holding Spain, SLU (Palma de Mallorca, Spain) (represented by: H. Fangmann, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: inCruises International LLC (San Juan, Puerto Rico, United States)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Application for European Union word mark INCRUISES — Application for registration No 18 034 630

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 21 September 2022 in Case R 1081/2021-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

Pleas in law

- Infringement of Article 47(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 33(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 13 December 2022 — Madre Querida and Others v Commission

(Case T-781/22)

(2023/C 45/37)

Language of the case: Spanish

Parties

Applicants: Madre Querida, SL (Burela, Spain), Hermanos Galdo, SL (Burela), Pesqueras Breogan, SL (Burela), Bresco Pesca, SL (Burela), Casariego 99, SL (Ribadeo, Spain), Pesquerías Mapa, SL (Gozon, Spain), Virgen de Pastoriza, SL (Burela), Pesca Norte Breogan, SL (Burela), Basanta Frá Hnos, CB (Burela), Armapesca Burela, SL (Burela), Deycon Pesca, SL (Viveiro, Spain), Larrabaste, SLU (Cariño, Spain), Pesqueras Canoura, SL (Burela), Pesqueras Luarquesa, SL (Navia, Spain), Pastor Nauta, CB (Cervo, Spain), Villaselan 99, SL (Tapia de Casariego, Spain), Organización de Productores Pesqueros del Puerto de Burela (LUGO) (Burela) (represented by: Á. Givaja Sanz, A. Lamadrid de Pablo and V. Romero Algarra, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul Article 2 and Annex II of Implementing Regulation (EU) 2022/1614 ⁽¹⁾ of the Commission of 15 September 2022, determining the existing deep-sea fishing areas and establishing a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur;
- alternatively, and in addition, declare Article 9(6) and (9) of Regulation (EU) 2016/2336 ⁽²⁾ of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) 2347/2002 (the basic Regulation), to be invalid pursuant to Article 277 TFEU; and
- order the Commission to pay the costs of these proceedings.

Pleas in law and main arguments

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

1. First plea in law, alleging that Article 2 and Annex II of the Implementing Regulation infringe general principles of EU law, in particular the principle of non-discrimination and the principle of proportionality. Those provisions infringe the principle of non-discrimination by treating different gears identically and by treating the waters of the north-east Atlantic differently. They infringe the principle of proportionality by exceeding the limits of what is appropriate and necessary to implement the objectives of the Common Fisheries Policy.
2. Second plea in law, in the alternative to the first plea in law, alleging that paragraphs 6 and 9 of Article 9 of the basic Regulation are unlawful, as those provisions are contrary to general principles of EU law, in so far as they infringe Article 291 TFEU and the principle of proportionality.

⁽¹⁾ Commission Implementing Regulation (EU) 2022/1614 of 15 September 2022 determining the existing deep-sea fishing areas and establishing a list of areas where vulnerable marine ecosystems are known to occur or are likely to occur (OJ 2022 L 242, p. 1).

⁽²⁾ Regulation (EU) 2016/2336 of the European Parliament and of the Council of 14 December 2016 establishing specific conditions for fishing for deep-sea stocks in the north-east Atlantic and provisions for fishing in international waters of the north-east Atlantic and repealing Council Regulation (EC) No 2347/2002 (OJ 2016 L 354, p. 1).

Action brought on 16 December 2022 — France v Commission**(Case T-785/22)**

(2023/C 45/38)

*Language of the case: French***Parties**

Applicant: French Republic (represented by: T. Stéhelin, B. Fodda and E. Leclerc, acting as Agents)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- annul the notice of Open Competition EPSO/AST/154/22 — assistants (AST 3) in the fields of financial management, accounting and treasury, public procurement, graphic design and visual content production, social and digital media, and webmaster, published 22 September 2022 in the Official Journal of the European Union;
- order the Commission to pay the costs.