

Pleas in law and main arguments

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

1. First plea in law, alleging unlawfulness of the refusal to grant an exemption to AQUIND Interconnector in the Agency decision (Decision No 05/2018 of 19 June 2018). The applicant submits that unlawfulness is established by the fourth ground for annulment in the judgment of the General Court in Case T-735/18, ⁽¹⁾ as upheld by the Court of Justice in Case C-46/21 P ⁽²⁾. The Agency deliberately exceeded the limits of its discretion by imposing an additional condition for the grant of an exemption pursuant to Regulation (EC) 714/2009 of the European Parliament and of the Council. ⁽³⁾ The Agency's conduct also violated the principles of legitimate expectations, legal certainty, and equal treatment.
2. Second plea in law, alleging unlawfulness of the Board of Appeal's decision (Decision A-001-2018 of 17 October 2018) to uphold the Agency decision.
3. Third plea in law, alleging unlawfulness of the Agency's failure of review the Agency decision once AQUIND Interconnector lost its status of a Project of Common Interest, in a breach of the principle of good administration guaranteed by Article 41 of the Charter of Fundamental Rights.
4. Fourth plea in law, alleging the Agency's failure to comply promptly with the judgment of the General Court in Case T-735/18 in violation of Article 266 of the Treaty on the Functioning of the European Union and Article 29 of Regulation 2019/943 of the European Parliament and of the Council. ⁽⁴⁾
5. Fifth plea in law, alleging illegality of the deliberate and unjustified delay in re-opening proceedings following the judgment of the General Court.

The applicant alleges that this series of unlawful conduct has caused the applicant to suffer certain, specific and quantifiable damage.

⁽¹⁾ Judgment of 18 November 2020, Aquind v ACER (T-735/18, EU:T:2020:542).

⁽²⁾ Judgment of 9 March 2023, ACER v Aquind (C-46/21 P, EU:C:2023:182).

⁽³⁾ Regulation (EC) No 714/2009 of the European Parliament and of the Council of 13 July 2009 on conditions for access to the network for cross-border exchanges in electricity and repealing Regulation (EC) No 1228/2003 (OJ 2009 L 211, p. 15).

⁽⁴⁾ Regulation (EU) 2019/943 of the European Parliament and of the Council of 5 June 2019 on the internal market for electricity (OJ 2019 L 158, p. 54).

Action brought on 23 June 2023 — Katjes Fassin v EUIPO (Beyond Chocolate)

(Case T-343/23)

(2023/C 278/38)

Language of the case: German

Parties

Applicant: Katjes Fassin GmbH & Co. KG (Emmerich am Rhein, Germany) (represented by: A. Renck and C. Stöber)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark 'Beyond Chocolate' — Application No 18 578 274

Contested decision: Decision of the First Board of Appeal of EUIPO of 11 April 2023 in Case R 2352/2022-1

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 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 22 June 2023 — Finastra International v EUIPO — Fenestrae (FINASTRA)

(Case T-346/23)

(2023/C 278/39)

Language in which the application was lodged: English

Parties

Applicant: Finastra International Ltd (London, United Kingdom) (represented by: S. Malynicz, Barrister)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Fenestrae BV ('s-Gravenhage, Netherlands)

Details of the proceedings before EUIPO

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

Trade mark at issue: International registration designating the European Union in respect of the European Union word mark FINASTRA — International registration designating the European Union No 1 405 804

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 12 April 2023 in Case R 1296/2022-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO (and the intervener, should it take part in these proceedings) to bear its own costs and pay the costs of the applicant for annulment before this Court and before the Board of Appeal.

Pleas in law

- Wrong interpretation of the specified goods & services;
 - Misidentification of the relevant public;
 - Failing to apply the rule of conceptual counteraction as regards a specialised public.
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