

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

1. First plea in law, alleging a manifest error of assessment by the defendant.

- It is submitted in that regard that the manifest error of assessment referred to vitiates the assessment of the facts on the basis of which the applicants' inability to pay was rejected. Indeed, the imposition of the fine irretrievably jeopardises the applicants' economic viability, would cause their assets to lose all their value and fails to take into account the social and economic context.

2. Second plea in law, alleging the failure to observe the principle of proportionality.

- It is submitted in that regard that there is a failure, in the contested decision, to take into account the applicants' limited portfolio of products.

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**Action brought on 20 June 2016 — Tamasu Butterfly Europa v EUIPO — adp Gauselmann (Butterfly)**

**(Case T-315/16)**

(2016/C 287/35)

*Language in which the application was lodged: German*

#### **Parties**

*Applicant:* Tamasu Butterfly Europa GmbH (Moers, Germany) (represented by: C. Röhl, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* adp Gauselmann GmbH (Espelkamp, Germany)

#### **Details of the proceedings before EUIPO**

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

*Trade mark at issue:* EU word mark 'Butterfly'

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the First Board of Appeal of EUIPO of 17 March 2016 in Case R 221/2015-1

#### **Form of order sought**

The applicant claims that the Court should:

- Alter the contested decision to the effect that the opposition is upheld in its entirety and EU trade mark application No 011757549 is rejected;
- order the other party to pay the costs.

**Pleas in law**

- Infringement of Article 8(1)(b) of Regulation No 207/2009;
- Infringement of Article 8(4) of Regulation No 207/2009;
- Infringement of Article 8(5) of Regulation No 207/2009.

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**Action brought on 21 June 2016 — Moravia Consulting v EUIPO — Citizen Systems Europe (SDC-554S)****(Case T-316/16)**

(2016/C 287/36)

*Language in which the application was lodged: Czech***Parties***Applicant:* Moravia Consulting spol. s.r.o. (Brno, Czech Republic) (represented by: M. Kyjovský, lawyer)*Defendant:* European Union Intellectual Property Office (EUIPO)*Other party to the proceedings before the Board of Appeal:* Citizen Systems Europe GmbH (Stuttgart, Germany)**Details of the proceedings before EUIPO***Applicant:* Other party to the proceedings before the Board of Appeal*Trade mark at issue:* European Union word mark 'SDC-554S' — Application for registration No 12 780 581*Procedure before EUIPO:* Opposition proceedings*Contested decision:* Decision of the Second Board of Appeal of EUIPO of 1 April 2016 in Case R 1575/2015-2**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 8(4) of Regulation No 207/2009;
  - Infringement of Article 52(1)(b) of Regulation No 207/2009;
  - Infringement of Article 76(1) of Regulation No 207/2009;
  - Infringement of Rule 50(1) of Regulation No 2868/95.
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