

- Finally, the applicant puts forward that the contested decision is based on facts that have not been sufficiently clarified since the Agency has in particular — but not only- failed to make observations as to where structural congestion exists in the joint German-Austrian market area and where this would to be managed most efficiently; to what extent loop flows take place and affect the German-Austrian border; what effects current and pending measures relating to network expansion and improving network security have; how much of the electricity flowing to Austria via other Member States subsequently continues to flow from there to Germany.

5. Fifth plea in law, alleging a failure to state reasons.

- ⁽¹⁾ Commission Regulation (EU) 2015/1222 of 24 July 2015, establishing a guideline on capacity allocation and congestion management (OJ L 197, p. 24).
- ⁽²⁾ Regulation (EC) No 713/2009 of the European Parliament and of the Council of 13 July 2009 establishing an Agency for the Cooperation of Energy Regulators (OJ L 211, p. 1).
- ⁽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 L 211, p. 15).

Action brought on 1 February 2017 — Grupo Orenes v EUIPO — Akamon Entertainment Millenium (Bingo VIVA! Slots)

(Case T-63/17)

(2017/C 095/31)

Language in which the application was lodged: Spanish

Parties

Applicant: Grupo Orenes, SL (Murcia, Spain) (represented by: M. Sanmartín Sanmartín, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Akamon Entertainment Millenium, SL (Barcelona, Spain)

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: European Union figurative mark containing the word elements 'Bingo VIVA! Slots' — Application for registration No 13 468 251

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 7 November 2016 in Case R 453/2016-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to bear its own costs and pay the applicant's costs.

Pleas in law

- Infringement of Articles 64, 75, 76 of Regulation No 207/2009 read in conjunction, where appropriate, with Article 8 (1)(b) of that regulation and Rules 50 and 52 of Regulation 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark and also the case-law of the Court of Justice interpreting all those provisions.
 - Failure to make a proper overall comparison of the signs.
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