

Other party to the proceedings before the Board of Appeal: Novartis AG (Basel, Switzerland)

Details of the proceedings before EUIPO

Applicant: Applicant

Trade mark at issue: EU word mark 'ILLUMINA' — Application for registration No 11 934 239

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 11 January 2017 in Case R 1187/2016-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO and the other party, should it intervene, to pay the costs of proceedings, including those incurred before the Board of Appeal.

Pleas in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009;
- Infringement of Articles 75, 42(2) and 64(1) of Regulation No 207/2009.

Action brought on 14 March 2017 — Consorzio di Garanzia dell'Olio Extra Vergine di Oliva di Qualità v Commission

(Case T-163/17)

(2017/C 129/58)

Language of the case: Italian

Parties

Applicant: Consorzio di Garanzia dell'Olio Extra Vergine di Oliva di Qualità (Rome, Italy) (represented by: A. Fratini and G. Pandolfi, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- allow the action and accordingly, declare that Commission has incurred non-contractual liability in accordance with Article 268 and the second paragraph of Article 340 TFEU;
- order the payment of damages for material harm (actual loss and loss of profit) and non-material harm (to image and reputation) suffered by the applicant;
- order the payment of compensatory interest and default interest;
- order the Commission to pay all the costs of the proceedings.

Pleas in law and main arguments

The applicant in the present action seeks to obtain damages for harm sustained, first, as a result of the Commission's uncoordinated management of EU programmes for the promotion of olive oil in third countries and, second, because of the failure, by the Commission, to eliminate successfully the harmful and distortive competitive effects caused by the uncoordinated overlap of the two programmes.

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

1. First plea in law, relating to the Commission's unlawful conduct in relation to infringement of the principle of non-discrimination laid down in Articles 18 and 21 of the Charter of Fundamental Rights of the European Union and the principle of protection of legitimate expectations, the Commission having failed to coordinate coherently EU programmes for the promotion of olive oil in third countries, as well the principle of good administration and the right to good administration laid down in Article 41(1) of the Charter of Fundamental Rights of European Union, the Commission having failed, according to the applicant, to adopt the measures which were required once it had become aware of the anti-competitive effects resulting from the lack of coordination of the two promotional campaigns.
2. Second plea in law, alleging the existence of actual and certain damage relating to the fact that, by failing to meet its obligations, the Commission caused significant harm to the applicant (actual loss, loss of profit and non-material harm).
3. Third plea in law, alleging the existence of a causal link relating to the fact that, the harm suffered being a sufficiently direct and immediate consequence of the poor management of the programmes of promotion of olive oil in third countries, a direct cause-and-effect relationship emerges from the Commission's conduct and the harm sustained, which must be made good in accordance with the second paragraph of Article 340 TFEU.

Action brought on 10 March 2017 — Emcur v EUIPO — Emcure Pharmaceuticals (EMCURE)

(Case T-165/17)

(2017/C 129/59)

Language in which the application was lodged: English

Parties

Applicant: Emcur Gesundheitsmittel aus Bad Ems GmbH (Bad Ems, Germany) (represented by: K. Bröcker, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Emcure Pharmaceuticals Ltd (Bhosari, India)

Details of the proceedings before EUIPO

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: EU word mark 'EMCURE' — Application for registration No 12 269 049

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 13 December 2016 in Case R 790/2016-2

Form of order sought

The applicant claims that the Court should:

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

Plea in law

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