

Form of order sought

The applicant claims that the Court should order the defendant to delete from the applicant's 'Appraisal Report' for the year 2016 any criticism of her communication style, on the ground that it constitutes a misrepresentation and is contrary to the fundamental right of the individual to freely express ideas and opinions.

Pleas in law and main arguments

The present action is brought against EUIPO's decision adopted in the applicant's annual performance appraisal for the year 2016.

Specifically, the applicant requests that certain assessments be removed from the 'Appraisal Report'.

In support of her action, the applicant relies on her right to freedom of expression whilst at work without fear of reprisal.

The applicant considers her right to freedom of expression to have been infringed and considers that the reason given for the decision not to promote the official, as merited on the basis of the appraisal of her commitment, the quality and performance of her work, denies her the opportunity to defend herself.

Action brought on 20 December 2017 — Etnia Dreams v EUIPO — Poisson (Etnik)**(Case T-823/17)**

(2018/C 072/51)

*Language in which the application was lodged: Spanish***Parties**

Applicant: Etnia Dreams SL (Valencia, Spain) (represented by: P. Gago Comes, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Serge Poisson (Limal, Belgium)

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 word mark 'Etnik' — Application for registration No 15 721 301.

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 19 October 2018 in Case R 880/2017-4

Form of order sought

The applicant claims that the Court should, as a consequence of the claim being upheld, give a new judgment allowing opposition No B 2 791 229 and therefore, after the appropriate legal formalities, reject the application for registration of the EU trademark No 15 721 301 'Etnik' for Classes 3 and 35, under Articles 8(1)(a) and (b) of the EUTMR, as there is a likelihood of confusion with the Community trade mark No 11 017 241, the proprietor of which is Etnia Dreams SL.

Pleas in law

- The basis of the opposition clearly falls within Article 8(1)(b) of Regulation No 207/2009;
- The defendant should have applied the final subparagraph of Rule 17(3) and (4) of Regulation No 2868/95 and therefore should have informed the applicant of the defect in order for it to be remedied within the period of two months.
- Infringement of Articles 41 and 42 of Regulation No 207/2009.
- Breach of Articles 10, 41, 47 and 48(2) of the Charter of Fundamental Rights of the European Union.
- Breach of the principles of good faith and protection of legitimate expectations.

Action brought on 29 December 2017 — United Parcel Service v Commission**(Case T-834/17)**

(2018/C 072/52)

*Language of the case: English***Parties**

Applicant: United Parcel Service, Inc. (Atlanta, Georgia, United States) (represented by: A. Ryan, solicitor, F. Hoseinian and W. Knibbeler, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- compensate UPS for the damages incurred, in the amount of EUR 1 742 billion and applicable interest;
- compensate UPS for the taxes that will be imposed on the damages obtained, on the basis of the tax rate applicable on the day of judgment; and
- order the Commission to pay the costs of the present proceedings.

Pleas in law and main arguments

The applicant seeks compensation under Article 340 TFEU for the loss suffered as a consequence of Commission Decision C(2013) 431, Case COMP/M.6570 UPS/TNT Express ('the Decision') which was annulled by the General Court on 7 March 2017 in Case T-194/13.

In support of its application, the applicant claims that the Decision is tainted with serious breaches of rules of law that are intended to confer rights on UPS. According to the applicant, each breach individually underpinned the Decision and prevented the applicant from acquiring TNT and from materialising the benefits associated with that proposed transaction.

The applicant claims that these breaches are a serious breach of the law regarding (1) the price concentration analysis; (2) the efficiencies analysis; (3) the assessment of FedEx's competitiveness; and (4) the assessment of the closeness of competition made in the Decision.

According to the applicant, each of these breaches, individually or considered together, is responsible for the unlawful Decision and establishes the Union's liability under Article 340 TFEU.