

Parties to the main proceedings

Applicant: Minoo Schuch-Ghannadan

Defendant: Medizinische Universität Wien

Questions referred

1. Is the principle of *pro rata temporis* under point 2 of clause 4 of the Framework Agreement annexed to Council Directive 97/81/EC of 15 December 1997 ⁽¹⁾ concerning the Framework Agreement on part-time work, in conjunction with the principle of non-discrimination under point 1 of clause 4, to be applied to legislation under which the total duration of immediately consecutive employment contracts of an employee of an Austrian university working within the framework of externally funded projects or research projects is 6 years for full-time employees, but 8 years for part-time employees, and moreover, if there is objective justification, in particular for the continuation or completion of research projects or publications, a further one-off extension up to a total of 10 years for full-time employees and of 12 years for part-time employees is permissible?
2. Does legislation such as that described in Question 1 constitute indirect discrimination based on sex within the meaning of Article 2(1)(b) of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) in the case where, within the group of workers subject to that legislation, a significantly higher percentage of women is affected as compared with the percentage of men so affected?
3. Is Article 19(1) of Directive 2006/54/EC of the European Parliament and of the Council of 5 July 2006 ⁽²⁾ on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation (recast) to be interpreted as meaning that a woman who, in the area of application of legislation such as that set out in Question 1, claims to have suffered indirect discrimination based on sex on the ground that significantly more women than men are employed on a part-time basis, must assert this fact, in particular that women are statistically much more significantly affected, by submitting specific statistics or specific facts and must substantiate this by means of appropriate evidence?

⁽¹⁾ OJ 1998 L 14, p. 9.

⁽²⁾ OJ 2006 L 204, p. 23.

Appeal brought on 25 April 2018 by The Green Effort Ltd against the order of the General Court (Second Chamber) delivered on 23 February 2018 in Case T-794/17: The Green Effort Ltd v European Union Intellectual Property Office

(Case C-282/18 P)

(2018/C 285/31)

Language of the case: English

Parties

Appellant: The Green Effort Ltd (represented by: A. Ziehm, Rechtsanwalt)

Other party to the proceedings: European Union Intellectual Property Office

Form of order sought

The applicant claims that the Court should:

— set aside the decision of the General Court (Second Chamber), 23 February 2018, Case T-794/17 in whole;

- annul the contested decisions;
- cancel the revocation of the registered EUTM 9 528 001;
- reject the application for revocation of rights;
- grant its application for ‘Restitution in integrum’;
- obtain and refer to the documents in the EUIPO proceedings Cancellation 12343 C, 10757 C, 10524 C, Oppositions Proceedings B 002165119; B 002199274; B 002344565; B 002367038; B 002513086, and B 002513151;
- order EUIPO and the Cancellation Applicant to pay their own costs and those of the applicant.

Pleas in law and main arguments

The appellant is basing the appeal on the following six grounds of appeal, whereby the General Court’s ruling was based on the 1st ground of appeal and the 2nd to 6th grounds show that the decision does not prove to be correct for other reasons.

1st ground of appeal: Infringement Article 3 (4) Decision No. 17-4 of the Executive Director of the Office of 16 August 2017 concerning communication by electronic means.

Arguments in support of the appeal: The General Court disregarded the fact that a notification shall be deemed to have taken place on the fifth calendar day following the day on which the document was created by EUIPO’s systems. For this reason the General Court incorrectly calculated the period for bringing an action against the decision of 11 September 2017 of the Second Board of Appeal of EUIPO.

2nd ground of appeal: the appeal must be declared well-founded since the contested EUIPO decisions infringe the appellant’s rights because the application for revocation by the Cancellation Applicant was inadmissible due to bad faith and incorrect statement of facts.

3rd ground of appeal: the appeal must be declared well-founded since the contested EUIPO decisions infringe the appellant’s rights because the proprietor’s proof of genuine use has been submitted to EUIPO within the lawful time limits under Commission Regulation (EC) No. 2868/95 ⁽¹⁾.

4th ground of appeal: the appeal must be declared well-founded since the contested EUIPO decisions infringe the appellant’s rights because the proprietor’s proof of genuine use was submitted to EUIPO within the time limits set by EUIPO.

5th ground of appeal: the appeal must be declared well-founded since the contested EUIPO decisions infringe the appellant’s rights because, if EUIPO failed to receive the genuine proof of use by means of the electronic communication system and/or by fax transmission, then this was due to technical failures in those systems.

6th ground of appeal: the appeal must be declared well-founded since the contested EUIPO decisions infringe the appellant’s rights because EUIPO, and subsequently the Second Board of Appeal, have wrongfully denied the appellant’s application for *restitutio in integrum*.

⁽¹⁾ Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995, L 303, p. 1).