

The applicant puts forward that ‘fees’ for airplanes in the category of 2 000 — 5 700 kg would elevate to be taxes, due to the ‘dramatic jump’ of the ‘flat fee’ of more than 1 700 percent. In this particular case, the defendant’s service for the citizen in return for the ‘fees’ would be so negligible (minimal), that one could not consider the defendant’s service as a return, but it would constitute taxation.

However, the Commission would have no competence to levy taxes in the field of air safety. Therefore, Commission Regulation (EU) No 319/2014 prescribing a flat fee in the amount of EUR 263 800 for certification tasks for airplanes such as the applicant’s, which is allegedly largely unrelated to the actual tasks performed by the defendant and, thus, would not constitute consideration for the defendant’s services rendered, would violate the principle of conferral.

2. Second plea in law, alleging that the contested invoice as confirmed by the contested decision, constitutes a violation of Article 16 of the Charter of Fundamental Rights of the European Union

Pursuant to the applicant, the fees it charged based on Regulation (EU) No 319/2014 for the given certification task would be out of proportion to the objective pursued and, thus, in violation with the applicant’s freedom to conduct business in accordance with Article 16 of the Charter of Fundamental Rights of the European Union.

3. Third plea in law, alleging that the contested invoice as confirmed by the contested decision, constitutes a discriminatory treatment and hence, is in violation of Article 20 of the Charter of Fundamental Rights of the European Union

The contested invoice issued by the defendant pursuant to Regulation (EU) No 319/2014 would not meet the requirements of Article 20 of the Charter of Fundamental Rights of the European Union, since the applicant would be treated differently compared to other aircraft manufactures seeking a type certification, although the situation requires the same treatment.

4. Fourth plea in law, alleging an infringement of Article 13(2) TEU

Finally, the applicant claims that Article 7(2) of Regulation (EU) No 319/2014 would not leave any discretion to the defendant concerning the payment of fees for the certification task. Rather, it would determine when the fee to be paid shall be a flat fee or a variable fee. By that, the Commission would have exceeded its authorisation to adopt the regulation, and thus violated the institutional balance of the Union set out in Article 13(2) TEU.

(¹) Commission Regulation (EU) No 319/2014 of 27 March 2014 on the fees and charges levied by the European Aviation Safety Agency, and repealing Regulation (EC) No 593/2007 (OJ 2014 L 93, p. 58).

Action brought on 22 June 2018 — NHS v EUIPO — HLC SB Distribution (CRUZADE)

(Case T-378/18)

(2018/C 276/91)

Language of the case: English

Parties

Applicant: NHS, Inc. (Santa Cruz, California, United States) (represented by: P. Olson, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: HLC SB Distribution, SL (Irún, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark CRUZADE — Application for registration No 13 528 112

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 13 April 2018 in Case R 1217/2017-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- reject EUTMA 013 528 112 for 'skateboards and their parts';
- order EUIPO to pay the costs.

Plea in law

- Infringement of Article 8 (1)(b) and 8 (5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 25 June 2018 — Engel v EUIPO — F. Engel (ENGEL)

(Case T-381/18)

(2018/C 276/92)

Language of the case: English

Parties

Applicant: Engel GmbH (Pfullingen, Germany) (represented by: C. Pfitzer, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: F. Engel K/S (Haderslev, Denmark)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: International registration designating the European Union in respect of the figurative mark ENGEL — International registration designating the European Union No 1 178 629

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 26 March 2018 in Case R 1423/2017-2