

Action brought on 31 October 2018 — Hästens Sängar v EUIPO (Representation of a pattern of squares)**(Case T-658/18)**

(2019/C 25/59)

*Language of the case: English***Parties***Applicant:* Hästens Sängar AB (Köping, Sweden) (represented by: M. Johansson and R. Wessman, lawyers)*Defendant:* European Union Intellectual Property Office (EUIPO)**Details of the proceedings before EUIPO***Trade mark at issue:* International registration designating the European Union in respect of the figurative mark in colours blue and white (Representation of a pattern of squares) — Application for registration No 1 340 047*Contested decision:* Decision of the Second Board of Appeal of EUIPO of 8 August 2018 in Case R 442/2018-2**Form of order sought**

The applicant claims that the Court should:

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

Pleas in law

- Infringement of Article 94 and Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council on the grounds that the Board of Appeal has not made a proper examination, and/or has failed to state the reasons for its decision in relation to the different goods and services applied for;
- Infringement of Article 94, Article 95 and Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council on the grounds that the subject trade mark is not a repeated pattern or a three-dimensional mark;
- Erroneous assessment of the relevant underlying public interest constituting infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council since the Board of Appeal has made an incorrect assessment as regards inherent distinctiveness.

Action brought on 7 November 2018 — Securitec v Commission**(Case T-661/18)**

(2019/C 25/60)

*Language of the case: French***Parties***Applicant:* Securitec (Livange, Luxembourg) (represented by: P. Peuvrel, lawyer)*Defendant:* European Commission

Form of order sought

The applicant claims that the General Court should:

- declare the present action for annulment formally admissible;
- substantively, declare the action for annulment justified;
- accordingly, annul the contested refusal decision of 7 September 2018;
- also annul the Commission's decision 17 September 2018;
- make any such further orders as may be necessary;
- order the Commission to pay the costs and other fees incurred in the context of the present action.

Pleas in law and main arguments

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

1. First plea in law, alleging breach of the obligation to state reasons, vitiating (i) the Commission's decision of 7 September 2018 to reject the tender submitted by the applicant under call for tender No HR/R1/PR/2017/059 entitled 'Maintenance of security installations in buildings occupied and/or managed by the European Commission in Belgium and Luxembourg' (OJ 2018/S 209-476275); and (ii) the decision of 17 September 2018 refusing to provide the applicant with the information that it had requested concerning the abovementioned call for tenders. The decision to reject the tender submitted by the applicant merely asserts that the tender did not offer the lowest price, whereas the price criterion was not the sole award criterion provided for in the tender specifications. An insufficiency of reasoning is tantamount to a failure to state reasons, and must be sanctioned by annulment of the decision.
2. Second plea in law, alleging unlawfulness of the contested decision. In this connection, the applicant argues that the lowest-price criterion was not the only one taken into account and that the successful tender had, moreover, to be regular and satisfy the requirements laid down. The applicant takes the view that the successful tenderer did not have NEDAP certification, which was nevertheless a requirement in the tender specifications. Accordingly, the award of the contract to that company was irregular, and the contested decisions should therefore be annulled.
3. Third plea in law, alleging infringement of the principles of transparency, equal treatment and non-discrimination vitiating the contested decisions, particularly in the light of the disproportionate requirement of a minimum turnover of EUR 900 000 for companies tendering for Lot No 4 in Luxembourg, and in view of the Commission's failure to respond to the questions raised in that connection in the applicant's letter of 28 June 2018.

Action brought on 9 November 2018 — Nissin Foods Holdings v EUIPO — The GB Foods (Soba JAPANESE FRIED NOODLES)

(Case T-663/18)

(2019/C 25/61)

Language of the case: English

Parties

Applicant: Nissin Foods Holdings Co. Ltd (Osaka, Japon) (represented by: S. Malynicz, QC, G. Messenger, Barrister, K. Gilbert and G. Lodge, Solicitors)

Defendant: European Union Intellectual Property Office (EUIPO)