

3. Third plea in law, in the alternative, alleging infringement by the Commission of its obligation to state reasons in so far as concerns the assessment of the amount to be recovered.
 - The Commission did not deal adequately with the evidence relied on by the parties, prejudged the amount of aid to be recovered in its press release, and infringed its own internal rules of procedure.
 - It was impossible to quantify the amount of a hypothetical aid, thereby creating an obstacle to the recovery thereof.
4. Fourth plea in law, in the alternative, alleging that the State aid found in the contested decision is time-barred.

(¹) Communication from the Commission — European Union framework for State aid in the form of public service compensation (2011) (OJ 2012 C 8, p. 15).

(²) Commission Decision of 20 December 2011 on the application of Article 106(2) of the Treaty on the Functioning of the European Union to State aid in the form of public service compensation granted to certain undertakings entrusted with the operation of services of general economic interest (OJ 2012 L 7, p. 3).

Action brought on 26 September 2019 – Dermavita v EUIPO – Allergan Holdings France (JUVEDERM ULTRA)

(Case T-643/19)

(2019/C 383/84)

Language of the case: English

Parties

Applicant: Dermavita Co. Ltd (Beirut, Lebanon) (represented by: D. Todorov, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Allergan Holdings France (Courbevoie, France)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark JUVEDERM ULTRA – European Union trade mark No 6 295 638

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 18 July 2019 in Joined Cases R 1655/2018-4 and R 1723/2018-4

Form of order sought

The applicant claims that the Court should:

- partially annul the contested decision concerning the dismissal of appeal R 1723/2018-4 and the decision of non-revocation of EUTM No 6 295 638 for the goods in class 5 and;
- order EUIPO and the other party to bear their own costs and pay those of the applicant for annulment at every stage of the action for revocation and appeal proceedings, including the cost of the proceedings before EUIPO and the Court.

Pleas in law

- Erroneous interpretation of the relevant law concerning the assessment of the nature of the goods the trademark has been used for;

- Misinterpretation of some of the evidence in the proceedings concerning the use of the trademark by third parties with the consent of the EUTM proprietor;
- Lack of sufficient proofs of the consent of the EUTM proprietor under the meaning of Article 18(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 26 September 2019 – Linde Material Handling v EUIPO – Verti Aseguradora (VertiLight)

(Case T-644/19)

(2019/C 383/85)

Language of the case: English

Parties

Applicant: Linde Material Handling GmbH (Aschaffenburg, Germany) (represented by: J. Plate and R. Kaase, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Verti Aseguradora, Compañía de seguros y reaseguros, SA (Madrid, Spain)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union word mark VertiLight – Application for registration No 16 161 788

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 5 July 2019 in Case R 1849/2018-5

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 8(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
 - Infringement of the obligation to state reasons, under Article 94(1), first sentence, of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
 - Infringement of the right to be heard, under Article 94(1), second sentence, of Regulation (EU) 2017/1001 of the European Parliament and of the Council.
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