

Plea in law

- Infringement of Article 58(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 10 September 2020 — Upper Echelon Products v EUIPO (Everlasting Comfort)
(Case T-562/20)

(2020/C 371/27)

Language of the case: English

Parties

Applicant: Upper Echelon Products LLC (Austin, Texas, United States) (represented by: M. Izquierdo Blanco, lawyer)

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 word mark Everlasting Comfort — Application for registration No 11 429 637

Contested decision: Decision of the First Board of Appeal of EUIPO of 14 July 2020 in Case R 952/2020-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and grant trademark No 11 429 637 for all the products requested;
- order EUIPO to pay the procedural costs.

Pleas in law

- Infringement of Article 75 of Council Regulation (EC) No 207/2009;
- Infringement of Article 7(1)(c) in conjunction with Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 11 September 2020 — Residencial Palladium v EUIPO — Fiesta Hotels & Resorts
(PALLADIUM HOTEL GARDEN BEACH)

(Case T-566/20)

(2020/C 371/28)

Language in which the application was lodged: Spanish

Parties

Applicant: Residencial Palladium SL (Ibiza, Spain) (represented by: D. Solana Giménez, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Fiesta Hotels & Resorts, SL (Ibiza, Spain)

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: Figurative mark PALLADIUM HOTEL GARDEN BEACH — EU trade mark No 8 564 701

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 30 June 2020 in Case R 1542/2019-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and declare EU trade mark No °8 564 701 invalid;
- order EUIPO to pay the costs.

Plea in law

In support of its action, the applicant claims that the Board of Appeal erred in basing its decision on the applicant not having duly substantiated the use and the more than mere local significance of the earlier unregistered sign GRAND HOTEL PALLADDIUM.

Action brought on 10 September 2020 — ML v Commission

(Case T-567/20)

(2020/C 371/29)

Language of the case: French

Parties

Applicant: ML (represented by: L. Levi and V. Vandenbussche, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare the present action admissible and well founded;
- consequently:
- annul the Commission's decision of 30 June 2020 not to accept the applicant's application in call for tender no [confidential] ⁽¹⁾;
 - order compensation for the harm suffered consisting in the loss of opportunity to have its tender evaluated and to be awarded the contract, estimated at EUR 1 500 000 over a period of ten years;
 - order the symbolic payment of one euro by way of damages, subject to increase;
 - order the Commission to pay the costs.

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 infringement of the duty to state reasons. The applicant considers in that regard that the statement of reasons for the contested decision is inadequate, in particular in relation to the criterion of economic and financial capacity.