

- Misinterpretation of patent application EP 3 005 948 A2 and the applicant's multiple design application No. 1 431 829-0001-0010.

Action brought on 2 September 2021 — PBL and WA v Commission

(Case T-538/21)

(2021/C 431/57)

Language of the case: French

Parties

Applicants: Penya Barça Lyon: Plus que des supporters (PBL) and WA (represented by: J. Branco, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the decision of the European Commission's Directorate-General for Competition of 1 September 2021 — COMP.C.4/AH/mdr 2021(092342);
- order the European Commission to:
 - make use of its powers under Article 116(1) TFEU by ordering the French Football Federation to immediately stop any normative distortion of competition and to comply with the UEFA Club Licensing and Financial Fair Play Regulations;
 - initiate infringement proceedings under Articles 107 and 108 TFEU and Article 12 of Council Regulation 2015/1589 of 13 July 2015 laying down procedural rules against France for unlawful State aid as regards Paris Saint-Germain and to refer the matter to the Court of Justice of the European Union accordingly;
- and order the Commission, pursuant to Article 13 of Council Regulation 2015/1589 of 13 July 2015 laying down procedural rules, to take interim measures against France with a view to putting an end to the damage allegedly suffered by the applicants by ordering it to suspend the following normative decisions, which create an unfair distortion of competition by means of State aid, which creates a selective advantage affecting competition and intra-EU trade within the EU single market:
 - the deliberations of 12 and 14 December 2019 of the General and Federal Assemblies of the Professional Football League and the deliberation of 10 December 2020 of the General Assembly of the Professional Football League taken on behalf of the French Football Federation in the exercise of its public authority;
 - the decision of 25 June 2021 by which the Professional Clubs Control Commission of the National Management Control Directorate of the Professional Football League did not take any administrative measures against PSG;
 - the decision of the Professional Football League — not published — by which it approved the contract signed between Mr. Lionel Messi and Paris Saint-Germain.

Pleas in law and main arguments

In support of the action against the European Commission's Decision COMP.C.4/AH/mdr 2021(092342) of 1 September 2021 refusing the applicants the status of interested parties within the meaning of Article 24(2) of Regulation 2015/1589, ⁽¹⁾ the applicants rely on five pleas in law.

1. First plea in law, based on the applicants' interest in bringing proceedings in this case. The applicants allege that the Commission failed to take account of the fact that the first applicant is a member ('socio') of Futbol Club Barcelona ('FC Barcelona') and that, as such, it is entitled to lodge a complaint about alleged unlawful aid.

2. Second plea in law, based on the consultation procedure provided for in Article 116 TFEU. The applicants claim, in particular that there is, in this case, a discrepancy between the provisions of the Member States which distorts the conditions of competition in the internal market. According to the applicants, the circumstance that the Spanish professional football league requires, unlike the French professional football league, compliance with a ratio between salaries and eligible revenue of 70 % constitutes such a distortion, which, in practice, penalises FC Barcelona.
3. Third plea in law, based on Article 13 of Regulation 2015/1589. By that plea, the applicants allege that France should be ordered to suspend the aid and measures capable of constituting unlawful and non-notified State aid to professional football clubs based in the country.
4. Fourth plea in law, based on the criteria adopted by the European Commission and the Court of Justice of the European Union in order to define State aid and the applicability of Article 108 TFEU in this case.
5. Fifth plea in law, alleging that the urgency of the situation justifies the filing by the applicants of an application for an accelerated procedure and an application for interim measures.

⁽¹⁾ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).

Action brought on 2 September 2021 — Vivostore v EUIPO — Linda (VIVO LIFE)

(Case T-540/21)

(2021/C 431/58)

Language in which the application was lodged: German

Parties

Applicant: Vivostore Ltd (Winscombe, United Kingdom) (represented by: T. Urek, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Linda AG (Cologne, Germany)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant in the proceedings before the Board of Appeal

Trade mark at issue: Application for European Union figurative mark VIVO LIFE — Application for registration No 18 049 468

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 6 July 2021 in Case R 1587/2020-2

Form of order sought

The applicant claims that the Court should:

- annul or vary the contested decision and uphold the decision of the Opposition Division of EUIPO in Case B 3 090 390 of 16 July 2020;
- order EUIPO to pay the costs.

Plea in law

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