

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the European Commission (Re.: ENER B 1/IMMR(2013) ENER.B.1.2638778) dated 20 June 2013 in order to include the offer of the applicant in the tender;
- In case the Court's decision, as sought, is taken after the tender is awarded to a bidder:
 - Annul the current tender No ENER/B1/2013-371 in order to give the applicant a chance to bid again;
 - Annul the decision to be taken by the European Commission granting tender No ENER/B1/2013-371 to a bidder; and/or
 - Grant damages in compensation of a missed opportunity, due to the exclusion of the applicant from the tender No ENER/B1/2013-371.

Pleas in law and main arguments

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

1. First plea in law, alleging that the General Court is competent to try the present case, in conformity with Article 263 TFEU.
2. Second plea in law, alleging that, through its conduct, the Commission created legitimate expectation that the bid was served in due time on it.

Action brought on 21 August 2013 — Bora Creations v OHIM — Beauté Prestige International (essence)

(Case T-448/13)

(2013/C 304/38)

Language in which the application was lodged: English

Parties

Applicant: Bora Creations, SL (Ceuta, Spain) (represented by: R. Lange, G. Hild and C.Pape, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Beauté Prestige International SA (Paris, France)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fifth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 6 June 2013 given in Case R 1085/2012-5;
- Order the defendant to pay the costs of proceedings.

Pleas in law and main arguments

Registered Community trade mark in respect of which a declaration of invalidity has been sought: The word mark 'essence' for goods in Classes 3, 4, 8, 14, 16, 21, 25 and 26 — Community trade mark registration No 6 816 144

Proprietor of the Community trade mark: The applicant

Applicant for the declaration of invalidity of the Community trade mark: The other party to the proceedings before the Board of Appeal

Grounds for the application for a declaration of invalidity: Absolute grounds pursuant to Article 52(1) of Council Regulation (EC) No 207/2009 of 26 February 2009 on the Community trade mark (CTMR) ⁽¹⁾, namely that the CTM was registered in breach of Article 7(1)(b) and (c) CTMR

Decision of the Cancellation Division: Rejected the application for a declaration of invalidity

Decision of the Board of Appeal: Allowed the appeal and declared the CTM partially invalid

Pleas in law: Infringement of Article 7(1)(b) and (c) CTMR.

⁽¹⁾ OJ L 78, p. 1

Action brought on 23 August 2013 — CEDC International v OHIM — Fabryka Wódek Polmos Łańcut (WISENT)

(Case T-449/13)

(2013/C 304/39)

Language in which the application was lodged: English

Parties

Applicant: CEDC International sp. z o.o. (Oborniki Wielkopolskie, Poland) (represented by: M. Siciarek, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Fabryka Wódek Polmos Łańcut S.A. (Łańcut, Poland)

Form of order sought

The applicant claims that the Court should:

- Annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 10 June 2013 given in Case R 33/2012-4;
- Order the defendant and the other party to the proceedings before the Board of Appeal to pay the costs of proceedings.