

4. Fourth plea in law, alleging breach of the principle of legitimate expectations and manifest error of assessment.
5. Fifth plea in law, alleging infringement of the normal exercise of the rights of the defence, in particular of the right to be heard, the duty of impartiality and the observance of the principle of the presumption of innocence, and the failure to act diligently, in particular as regards the observance of reasonable time-limits.

Action brought on 24 January 2017 — Lotte v EUIPO — Nestlé Schöller (Representation of a koala)

(Case T-41/17)

(2017/C 095/25)

Language in which the application was lodged: German

Parties

Applicant: Lotte Co. Ltd (Tokyo, Japan) (represented by: M. Knitter, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Nestlé Schöller GmbH & Co. KG (Nuremberg, Germany)

Details of the proceedings before EUIPO

Applicant for an EU trade mark: Applicant

Trade mark at issue: EU figurative mark (Representation of a koala) — Application for registration No 6 158 463

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 28 October 2016 in Case R 250/2016-5

Form of order sought

The applicant claims that the Court should

- annul the contested decision;
- reject the opposition in its entirety;
- order EUIPO to pay the costs of these proceedings.

Pleas in law

- Infringement of Article 42(2) and (3) of Regulation No 207/2009;
 - Infringement of Rule 22(3) of Regulation No 2868/95;
 - Infringement of Article 15(1)(a) of Regulation No 207/2009;
 - Infringement of Article 8(1)(b) of Regulation No 207/2009.
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