

The applicant claims in this regard that the contested decision was not preceded by a proper adversarial procedure. The applicant claims that it was not informed of the commencement of the exclusion procedure and was therefore not in a position to defend itself in the context of the procedure and put forward arguments in its favour before the adjudicating body.

Had the applicant been in a position to defend itself, it would have put forward arguments in its defence which would most likely have resulted in a change in the adjudicating body's opinion on the matter and a different outcome to the overall proceedings, more favourable to GE.CO.P.

Action brought on 8 May 2017 — Swemac Innovation v EUIPO — Swemac Medical Appliances (SWEMAC)

(Case T-287/17)

(2017/C 213/52)

Language in which the application was lodged: English

Parties

Applicant: Swemac Innovation AB (Linköping, Sweden) (represented by: G. Nygren, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Swemac Medical Appliances AB (Linköping, Sweden)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'SWEMAC' — EU trade mark No 6 326 177

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 24 February 2017 in Case R 3000/2014-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and reinstate the EUTM number 006326177 to full validity, including goods and services in classes 10: 'Surgical and medical apparatus and instruments' and 42 'Research and development services relating to surgical and medical apparatus and instruments';
- order the other party to pay the costs of the Applicant before EUIPO and the Boards of Appeal, EUR 1 000; and
- order EUIPO and the other party to pay the costs of the Applicant before the General Court.

Pleas in law

- Infringement of Article 53(1)(c) of Regulation No 207/2009;
 - Infringement of Article 8 of Regulation No 207/2009.
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