

**Details of the proceedings before EUIPO**

*Applicant of the trade mark at issue:* Other party to the proceedings before the Board of Appeal

*Trade mark at issue:* EU figurative mark containing the word element 'apo' — Application for registration No 11 293 628

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 1 December 2016 in Case R 698/2016-4

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- uphold the Applicant's appeal against the contested decision in its entirety;
- order EUIPO to pay the costs.

**Pleas in law**

- Infringement of Articles 8(1)(b) and (5) of Regulation No 207/2009;
- The contested decision offends against the principle of *reformatio in peius*;
- The Board of Appeal erred in finding that the passing off claim under Article 8(4) was not substantiated.

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**Action brought on 16 February 2017 — Steinhoff and Others v ECB**

(Case T-107/17)

(2017/C 129/37)

*Language of the case: German*

**Parties**

*Applicants:* Frank Steinhoff (Hamburg, Germany), Ewald Filbry (Dortmund, Germany), Vereinigte Raiffeisenbanken Gräfenberg-Forchheim-Eschenau-Heroldsberg eG (Gräfenberg, Germany), Werner Bäcker (Rodgau, Germany), EMB Consulting SE (Mühlthal, Germany) (represented by: O. Hoepner, lawyer)

*Defendant:* European Central Bank

**Form of order sought**

The applicants claim that the Court should order the defendant to pay the following sums plus interest in each case at a rate of 5 % above the respective base rate from the date on which the action was commenced:

- to the first applicant: EUR 314 000;
- to the second applicant: EUR 54 950;
- to the third applicant: EUR 2 355 000;
- to the fourth applicant: EUR 303 795;
- to the fifth applicant: EUR 750 460.

### **Pleas in law and main arguments**

By the present action for damages, the applicants claim that the defendant breached its obligations by failing to refer, in its opinion of 17 February 2012 on the terms of securities issued or guaranteed by the Greek State (CON/2012/12), to the unlawfulness of the proposed restructuring of Greece's public debt through a mandatory exchange by Law 4050/2012.

In support of the action, the applicants raise four pleas in law.

1. First plea in law: failure to refer to the impermissibility of the compulsory restructuring in the light of the principle of *pacta sunt servanda*, since amending clauses cannot effectively be inserted retroactively into existing government bonds
2. Second plea in law: failure to find that the expropriatory effect of the envisaged Greek legislative proposal, which provided for a mandatory exchange without appropriate compensation being laid down in the legislation itself, constituted an infringement of the second sentence of Article 17(1) of the Charter of Fundamental Rights of the European Union
3. Third plea in law: failure to refer to an infringement of Article 63 TFEU
4. Fourth plea in law: failure to refer to an infringement of Article 124 TFEU

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**Action brought on 17 February 2017 — Pelikan v EUIPO — NBA Properties (NEW ORLEANS PELICANS)**

**(Case T-112/17)**

(2017/C 129/38)

*Language in which the application was lodged: English*

### **Parties**

*Applicant:* Pelikan Vertriebsgesellschaft mbH & Co. KG (Hannover, Germany) (represented by: U. Hildebrandt, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* NBA Properties, Inc. (New York, New York, United States)

### **Details of the proceedings before EUIPO**

*Applicant of the trade mark at issue:* Other party to the proceedings before the Board of Appeal

*Trade mark at issue:* EU figurative mark in black and white containing the word elements 'NEW ORLEANS PELICANS' — Application for registration No 11 518 487

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 16 December 2016 in Case R 408/2016-4

### **Form of order sought**

The applicant claims that the Court should:

— annul the contested decision;