

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 word mark 'WILD PINK' — Application for registration No 11 701 216

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 9 January 2017 in Case R 87/2015-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO and intervener to bear the costs, including those incurred by the applicants before the Office's Fourth Board of Appeal.

Pleas in law

- Infringement of Article 76(1) of Regulation No. 207/2009 and the rights of defense;
- Infringement of Article 75 of Regulation No. 207/2009 and of Article 296 TFEU,
- Infringement of Article 8(1)(b) and/or of Article 8(5) of Regulation No. 207/2009.

Action brought on 16 March 2017 — RV v Commission

(Case T-167/17)

(2017/C 144/76)

Language of the case: French

Parties

Applicant: RV (represented by: J.-N. Louis and N. De Montigny, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the decision of 21 December 2016 of the Director-General of the Directorate-General for Human Resources to place the applicant on leave in the interests of the service and to retire the applicant automatically with effect from 1 April 2017, pursuant to the fifth paragraph of Article 42c of the Staff Regulations;
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement of essential procedural requirements and that an unrestricted delegation of the powers of the appointing authority to apply Article 42c of the Staff Regulations is unlawful. It is also alleged that there has been infringement of the principles of equal treatment and non-discrimination.

2. Second plea in law, alleging that Article 42c of the Staff Regulations is unlawful, in so far as it disregards the recitals of Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (OJ 2013 L 287, p. 15), in particular the possibility of making it easier for officials to work until the age of 67 or, in exceptional circumstances, until the age of 70.
3. Third plea in law, alleging infringement of the principle of proportionality, the principle of legitimate expectations and the duty to have regard to the welfare of staff. It is also alleged that there has been a manifest error of assessment in the present case.

Action brought on 17 March 2017 — M & K v EUIPO — Genfoot (KIMIKA)

(Case T-171/17)

(2017/C 144/77)

Language in which the application was lodged: English

Parties

Applicant: M & K Srl (Prato, Italy) (represented by: F. Caricato, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Genfoot, Inc. (Montreal, Québec, Canada)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'KIMIKA' — Application for registration No 13 233 391

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 12 January 2017 in Case R 1206/2016-4

Form of order sought

The applicant claims that the Court should:

- recognize and declare that the recourse presented by the applicant is admissible and well founded; and consequently
- reform the contested decision;
- send the case back to EUIPO for a reforming decision and therefore give way to a definitive registration of the EU trade mark No 13 233 391 even in the classes contested;
- condemn the counterpart to pay fees and costs of the three proceeding.

Pleas in law

- Infringement of Article 15 of Regulation No 207/2009;
 - The Board of Appeal erred when it assessed the risk of confusion between the trade marks.
-