

**Order of the General Court of 12 April 2018 — Lackmann Fleisch- und Feinkostfabrik v EUIPO
(Лидер)**

(Case T-386/17) ⁽¹⁾

(EU trade mark — Application for EU figurative mark Лидер — Absolute ground for refusal — Lack of distinctive character — Article 7(1)(b) of Regulation (EC) No 207/2009 (now Article 7(1)(b) of Regulation (EU) 2017/1001) — Action manifestly lacking any foundation in law)

(2018/C 190/52)

Language of the case: German

Parties

Applicant: Lackmann Fleisch- und Feinkostfabrik GmbH (Bühl, Germany) (represented by: A. Lingenfelser, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Walicka, acting as Agent)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 28 April 2017 (Case R 2066/2016-1), concerning an application for registration of the figurative sign Лидер as an EU trade mark.

Operative part of the order

1. *The action is dismissed.*
2. *Lackmann Fleisch- und Feinkostfabrik GmbH shall pay the costs.*

⁽¹⁾ OJ C 256, 7.8.2017.

Action brought on 28 February 2018 — De Esteban Alonso v Commission

(Case T-138/18)

(2018/C 190/53)

Language of the case: French

Parties

Applicant: Fernando De Esteban Alonso (Saint-Martin-de-Seignanx, France) (represented by: C. Huglo, lawyer)

Defendant: European Commission

Form of order sought

- Order OLAF to produce in full and complete form the note of 19 March 2003 produced in the case of *Franchet and Byk v Commission* (T-48/05) before the General Court of the European Union;
- Order the European Commission to pay the sum of EUR 1 102 291.68 (one million one hundred and two thousand two hundred and ninety-one euros and sixty-eight cents) as compensation for the losses suffered, to be adjusted if necessary, divided as follows:
 - in respect of the non-material harm suffered by reason of never having [been] heard as regards the facts which gave rise to the charges against him, the sum of EUR 60 000;

- in respect of the losses suffered as a result of the unlawful, unjustified and disproportionate conduct of the European Commission in pursuing procedures without any factual ground or material element:
 - the sum of EUR 39 293,38 in respect of material harm, namely lawyers' fees;
 - the sum of EUR 872,74 in respect of material harm, namely travel expenses;
 - the sum of EUR 500 000 in respect of non-material harm, namely the undeniable damage caused to his reputation and honour;
 - the sum of EUR 500 000 as compensation for the physical and mental harm adversely affecting his state of health;
 - the sum of EUR 2 125,56 in respect of material harm, namely examination and medical costs.
- Order the European Commission to pay the sum of EUR 3 000 in respect of non-recoverable costs and all the costs of the action, to be adjusted if necessary.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law, alleging the unlawfulness of the European Commission's conduct and its serious wrongdoing, in that it failed to observe, firstly, the principle of sound administration; secondly, the duty of care and, thirdly, the principles of the rights of the defence by infringing Articles 41 and 48 of the Charter of Fundamental Rights.

Action brought on 5 March 2018 — Braesch and Others v Commission

(Case T-161/18)

(2018/C 190/54)

Language of the case: English

Parties

Applicants: Anthony Braesch (Luxembourg, Luxembourg), Trinity Investments DAC (Dublin, Ireland), Bybrook Capital Master Fund LP (Grand Cayman, Cayman Islands), Bybrook Capital Hazelton Master Fund LP (Grand Cayman), Bybrook Capital Badminton Fund LP (Grand Cayman) (represented by: M. Siragusa, A. Champsaur, G. Faella, and L. Prosperetti, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul Commission decision C(2017) 4690 final of 4 July 2017, ⁽¹⁾ in Case SA.47677 (2017/N);
- in the alternative, annul the said decision insofar as it concerns the treatment of the FRESH ⁽²⁾ Instruments;
- order the Commission to pay the applicants' legal and other costs and expenses in relation to this matter;
- take any other measures the Court considers appropriate, including measures of organisation of procedure under Articles 89(3) and/or measures of inquiry under Article 91(1)(b) of the Rules of Procedure of the General Court.