

Form of order sought

The applicant claims that the Court should:

- Alter Decision No 2336/2010-5 of the Fifth Board of Appeal by annulling it and reject Filippo Gemelli's opposition to mark 007502181.

Pleas in law

- Failure to comply with the time limit for submission of documentary evidence of the decision of the Tribunale di Torino (District Court, Turin, Italy) revoking the earlier mark on the ground of non-use;
- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 25 June 2018 — Pielczyk v EUIPO — Thalgo TCH (DERMAEPIL SUGAR EPIL SYSTEM)

(Case T-398/18)

(2018/C 285/61)

Language of the case: English

Parties

Applicant: Radoslaw Pielczyk (Klijndijk, Netherlands) (represented by: K. Kielar, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Thalgo TCH (Roquebrune-sur-Argens, France)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant before the General Court

Trade mark at issue: European Union trade mark No 11 649 324

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 13 April 2018 in Joined Cases R 979/2017-4 and R 1070/2017-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision in part, namely in so far as the Board of Appeal
 - a) dismissed the Applicant's appeal R 979/2017-4
 - b) partially allowed the cancellation Thalgo TCH's appeal R 1070/2017-4 for the goods in Class 3 of the Nice Classification;
 - c) declared the EUTM No 11 649 324 also invalid for the indicated goods in Class 3;
 - d) upheld EUIPO's decision of 21/03/2017 (Cancellation proceedings No 11 974 C) in part in which pursuant to the decision the Applicant's trade mark has been declared invalid for goods in Class 3;

- order Thalgo TCH to pay the costs incurred in the proceedings before the cancellation Division of the EUIPO and the Board of Appeal;
- order EUIPO to pay the costs of the present proceedings.

Pleas in law

- Infringement of Article 60(1)(a) in connection with Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Rule 22(3)(4) in connection with Rule 40(6) of the Commission Regulation (Ec) No 2868/95;
- Infringement of Article 64(2)(3) in connection with Article 18(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 4 July 2018 — Silgan Closures and Silgan Holdings v Commission

(Case T-410/18)

(2018/C 285/62)

Language of the case: German

Parties

Applicants: Silgan Closures GmbH (Munich, Germany), Silgan Holdings Inc. (Stamford, Connecticut, United States) (represented by: H. Wollmann, D. Seeliger, R. Grafunder and V. Weiss, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the contested decision pursuant to Article 264 TFEU in so far as it relates to the applicants;
- order the Commission to pay the applicants' costs.

Pleas in law and main arguments

By the present action, the applicants request that the Court annul in part Commission Decision C(2018) 2466 final of 19 April 2018 on the initiation of proceedings pursuant to Article 2(1) of Commission Regulation (EC) No 773/2004 ⁽¹⁾ in case AT.40522 — Pandora.

In support of the action, the applicants rely on the following pleas in law.

1. Infringement of the principle of subsidiarity

In the first plea in law the applicants complain that, by the contested decision, the Commission has withdrawn the legal basis from proceedings before the German Federal Cartel Office in the same case, such proceedings having been pending for more than three years to date and having reached the decision stage.

2. Infringement of the principle of proportionality

In the second plea in law the applicants allege that the contested decision was neither necessary in order to allow the Commission to carry out the general check that it wished to undertake, nor appropriate, taking into account the interests of both sides, given its disadvantages for the applicants.