

Form of order sought

The applicant claims that the Court should:

- alter the contested decision such that the application for a declaration of invalidity is dismissed in its entirety;
- order EUIPO to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 20 August 2018 — ZPC Flis v EUIPO — Aldi Einkauf (Happy Moreno choco)

(Case T-498/18)

(2018/C 352/57)

Language of the case: English

Parties

Applicant: ZPC Flis sp.j. (Radziejowice, Poland) (represented by: M. Kondrat, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Aldi Einkauf GmbH & Co. OHG (Essen, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: Application for European Union figurative mark Happy Moreno choco — Application for registration No 15 028 087

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 31 May 2018 in Case R 1464/2017-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and refer the case back to the EUIPO for reconsideration;
- or
- alter the contested decision by stating that there are no relative grounds for refusal of registration of the EUTMA 015028087 'Happy Moreno choco' for all goods in classes 30 and 35 and the trademark shall be registered;
- award the costs in the Applicant's favour.

Pleas in law

- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
 - Infringement of the principle of the protection of legitimate expectations and the principle of legal certainty.
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