

Action brought on 11 September 2018 — Société des produits Nestlé v EUIPO — European Food (fitness)

(Case T-536/18)

(2018/C 399/62)

Language of the case: English

Parties

Applicant: Société des produits Nestlé SA (Vevey, Switzerland) (represented by: A. Jaeger-Lenz, A. Lambrecht, C. Elkemann, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: European Food SA (Pântășești, Romania)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union word mark fitness — European Union trade mark No 2 470 326

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 6 June 2018 in Case R 755/2018-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- dismiss the appeal against the Cancellation Division's decision 5802 C of 18 October 2013;
- order EUIPO to pay the costs.

Pleas in law

- Infringement of Article 72(6) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 95(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 7(1)(c) in conjunction with Article 59(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 7(1)(b) in conjunction with Article 59(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.