

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law, alleging that the Commission violated the applicant's procedural rights as an interested party pursuant to Article 108(2) TFEU and Articles 4(4), 12(1) and 24(1) of the Procedural Regulation, ⁽¹⁾ by failing to open the formal investigation procedure provided for in Article 108(2) TFEU despite the serious difficulties arising in the assessment of the state aid issues addressed in the complaint related to the administrative 'export declaration' practice and in particular to the relief of the obligation for the Border Shops to charge a deposit and thereby pay the deposit VAT, as well as a relief of fines for violations of the deposit charging obligations under the German canned beverages deposit scheme. The Commission therefore committed errors of law and manifest errors of assessment of the facts, first, as concerns the compatibility of the 'export declaration' practice with Germany's obligations pursuant to Article 4(3) TFEU, the Packaging Directive ⁽²⁾ and the polluter-pays principle, and with the deposit charging requirements pursuant to the applicable German Packaging Ordinance. Secondly, the Commission erred with respect to the State aid effects of the VAT revenue foregone by Germany as a result of the 'export declaration' practice.

⁽¹⁾ Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 of the Treaty on the Functioning of the European Union, OJ L 248, 24.9.2015, p. 9.

⁽²⁾ Directive (EU) 2018/852 of the European Parliament and of the Council of 30 May 2018 amending Directive 94/62/EC on packaging and packaging waste, OJ L 150, 14.6.2018, p. 141.

Action brought on 28 January 2019 — smart things solutions v EUIPO — Samsung Electronics (smart:)things)

(Case T-48/19)

(2019/C 103/70)

Language of the case: English

Parties

Applicant: smart things solutions GmbH (Seefeld, Germany) (represented by: R. Dissmann, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Samsung Electronics GmbH (Schwalbach am Taunus, Germany)

Details of the proceedings before EUIPO

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

Trade mark at issue: European Union figurative mark smart:)things in colours black and green — European Union trade mark No 10 914 836

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 20 November 2018 in Case R 835/2018-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Pleas in law

- Infringement of Article 7(1)(b) and (c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 28 January 2019 — View v EUIPO (CREATE DELIGHTFUL HUMAN ENVIRONMENTS)**(Case T-49/19)**

(2019/C 103/71)

*Language of the case: English***Parties***Applicant:* View, Inc. (Milpitas, Delaware, United States) (represented by: G. Tritton, Barrister)*Defendant:* European Union Intellectual Property Office (EUIPO)**Details of the proceedings before EUIPO***Trade mark at issue:* International registration designating the European Union in respect of the word mark CREATE DELIGHTFUL HUMAN ENVIRONMENTS — International registration designating the European Union No 1 381 213*Contested decision:* Decision of the Second Board of Appeal of EUIPO of 27 November 2018 in Case R 1625/2018-2**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs of the applicant.

Pleas in law

- Infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 28 January 2019 — Casual Dreams v EUIPO — López Fernández (Dayaday)**(Case T-50/19)**

(2019/C 103/72)

*Language in which the application was lodged: Spanish***Parties***Applicant:* Casual Dreams, SLU (Manresa, España) (represented by: A. Tarí Lázaro, lawyer)*Defendant:* European Union Intellectual Property Office (EUIPO)