



C/2023/1178

4.12.2023

**Action brought on 18 October 2023 — Mendes v EUIPO — Actial Farmaceutica  
(BIFIDOBACTERIUM BREVE DSM24732)**

**(Case T-1041/23)**

(C/2023/1178)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Mendes SA (Lugano, Switzerland) (represented by: M. Cavattoni, lawyer)

*Defendant:* European Union Intellectual Property Office

*Other party to the proceedings before the Board of Appeal:* Actial Farmaceutica Srl (Rome, Italy)

**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 BIFIDOBACTERIUM BREVE DSM24732 — European Union trade mark No 12 868 981

*Procedure before EUIPO:* Cancellation proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 16 August 2023 in Case R 2246/2022-4

**Form of order sought**

The applicant claims that the Court should:

- uphold its action;
- annul the contested decision;
- order the other party to the proceedings to bear the costs and fees.

**Pleas in law**

- Infringement of Article 7(1)(c) of Council Regulation (EC) No 207/2009;
- Infringement of Article 7(1)(b) and (c) of Council Regulation (EC) No 207/2009;
- Violation of the right to property of the applicant;
- Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.