C/2024/964

29.1.2024

Action brought on 24 November 2023 — Rodríguez Ruiz v EUIPO — Scherer (LEMOON)

(Case T-1099/23)

(C/2024/964)

Language in which the application was lodged: French

Parties

Applicant: Miguel Ángel Rodríguez Ruiz (Albelda de Iregua, Spain) (represented by: J. Pérez Itarte, lawyer)

Defendant: European Union Intellectual Property Office

Other party to the proceedings before the Board of Appeal: Markus Scherer (Mannheim, Germany)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Application for European Union word mark LEMOON — Application for registration No 18 183 606

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 31 July 2023 in Case R 352/2023-5

Forms of order sought

The applicant claims that the Court should:

— annul/revoke the contested decision and refuse registration of European Union trade mark No 18 183 606 LEMOON for the designated goods in Classes 32 and 33;

— order EUIPO and the intervener (if he appears and intervenes in the present action) to pay the costs, including those of the proceedings before the Opposition Division of the Operations Department and before the Fifth Board of Appeal of EUIPO;

— in the alternative, and in the event that this action is dismissed in part by the General Court, revoke the contested decision in so far as it orders the applicant to pay the costs incurred in the administrative proceedings before EUIPO (EUR 1 570).

Pleas in law

— Infringement of Articles 68, 94 and 95 of Regulation (EU) 2017/1001 of the European Parliament and of the Council and lack of defence;

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