

Details of the proceedings before OHIM

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: Community word mark 'VITAMELTS' — Community trade mark No 11 403 581

Procedure before OHIM: Proceedings for a declaration of invalidity

Contested decision: Decision of the First Board of Appeal of OHIM of 10 September 2015 in Case R 2649/2014-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- confirm the decision of the Cancellation Division in its entirety so that Application for Revocation No. 8627 C is rejected;
- order OHIM and Pharmavite LLC to pay the Appellant's costs in relation to these proceedings.

Pleas in law

- The Board of Appeal infringed Article 52(1)(b) of Regulation No 207/2009. It erred in law in finding that the Appellant has acted in bad faith when filing the application for registration of the contested trade mark;
- The Board of Appeal's decision is based, in part, on an infringement of an essential procedural requirement, namely the failure to provide the Appellant with an opportunity to respond to evidence submitted by the Cancellation Applicant.

Action brought on 4 December 2015 — Drugsrus v EMA

(Case T-717/15)

(2016/C 038/100)

Language of the case: English

Parties

Applicant: Drugsrus Ltd (London, United Kingdom) (represented by: M. Howe and S. Ford, Barristers, and R. Sanghvi, Solicitor)

Defendant: European Medicines Agency

Form of order sought

The applicant claims that the Court should:

- annul the decision contained in the EMA's email dated 8 October 2015, that Drugsrus is not permitted to rebrand as Eklira Genuair, a product imported as Bretaris Genuair; and
- order EMA to pay the applicant's costs.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law.

The applicant contends that the EMA has erred in law in concluding that it is impermissible to rebrand centrally authorised medicinal products. It submits that under the rules of the TFUE on the free movement of goods, a parallel importer is permitted to repackage and/or rebrand a product for parallel distribution provided that such repackaging or rebranding is objectively necessary in order that the imported product can gain effective access to the market of the importing Member State.

Order of the General Court of 23 November 2015 — Necci v Commission

(Case T-211/15 P) ⁽¹⁾

(2016/C 038/101)

Language of the case: French

The President of the Court has ordered that the case be removed from the register.

⁽¹⁾ OJ C 205, 22.6.2015.
