

*Contested decision:* Decision of the First Board of Appeal of OHIM of 6 November 2015 in Case R 954/2015-1

### **Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- allow Community trade mark application No. 13436175 to proceed to registration;
- waive the objections to the CTM Application under Articles 7(1)(b), (c) and (g) and Article 7(2);
- allows the CTM Application to proceed to acceptance and advertisement for all covered goods and services;
- order OHIM to pay the Applicant's costs in this matter.

### **Pleas in law**

- Infringement of Article 7(1)(b), (c) and (g) Regulation No 207/2009;
- Infringement of Article 7(2) of Regulation No 207/2009.

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**Action brought on 25 January 2016 — Nanu-Nana Joachim Hoepf v OHIM — Fink (NANA FINK)**

**(Case T-39/16)**

(2016/C 106/51)

*Language in which the application was lodged: German*

### **Parties**

*Applicant:* Nanu-Nana Joachim Hoepf GmbH & Co. KG (Bremen, Germany) (represented by: T. Boddien, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

*Other party to the proceedings before the Board of Appeal:* Nadine Fink (Basle, Switzerland)

### **Details of the proceedings before OHIM**

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

*Trade mark at issue:* International registration designating the European Union in respect of the figurative mark containing the word elements 'NANA FINK' — International registration designating the European Union No IR 1 111 651

*Procedure before OHIM:* Opposition proceedings

*Contested decision:* Decision of the First Board of Appeal of OHIM of 12 November 2015 in Case R 679/2014-1

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision in opposition proceedings B 2 125 543 (International trade mark registration No IR 1 111 651);
- order OHIM to pay the costs.

**Plea in law**

- Infringement of Article 8(1)(b) of Regulation No 207/2009.

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**Action brought on 29 January 2016 — 1&1 Telecom v Commission**

(Case T-43/16)

(2016/C 106/52)

*Language of the case: English*

**Parties**

*Applicant:* 1&1 Telecom GmbH (Montabaur, Germany) (represented by: J. Murach, lawyer and P. Alexiadis, Solicitor)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul the decision of the European Commission of 19 November 2015, adopted by the Director General for Competition in relation to the implementation of the Non-MNO Remedy in Case COMP/M.7018 — Telefónica Deutschland/E-Plus (the 'Merger decision'), which declared the Self-Commitment Letter in line with the Final Commitments and with EU law;
- order the Commission to request that TEF DE issues a new Self-Commitment letter that is strictly limited to the obligation required from it, as set out in paragraph 78 of the Final Commitments approved by the merger decision;
- order the Commission to bear its own costs and those of the applicant, in accordance with Article 87 of the Consolidated Version of the Rules of Procedure of the General Court.

**Pleas in law and main arguments**

In support of the action, the applicant relies on two pleas in law.

1. First plea in law, alleging that, in adopting the decision, the Commission engaged in manifest errors of law because the Treaties, the European Union Merger Regulation ('EUMR'), the Merger decision and the Final Commitments do not leave any room for Clause 2.3 of the Self-Commitment letter as accepted by the decision.
  2. Second plea in law, alleging that the Commission, in adopting its decision, misused its powers by taking account considerations unrelated to competition, in breach of the Treaties, the EUMR and the Merger decision.
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