

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Second Board of Appeal of EUIPO of 9 March 2016 in Case R 489/2015-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and declare invalid EU trade mark No 8 500 548;
- order the defendant to pay the costs of the proceedings;
- order the intervener to pay the costs of the proceedings before the EUIPO.

Pleas in law

- Infringement of Article 75 and 76 of Regulation No 207/2009;
- Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009.

Action brought on 13 June 2016 — Marsh v EUIPO (ClaimsExcellence)

(Case T-308/16)

(2016/C 287/33)

Language of the case: German

Parties

Applicant: Marsh GmbH (Frankfurt am Main, Germany) (represented by: W. Riegger, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'ClaimsExcellence' — Application No 13 847 462

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 8 April 2016 in Case R 2358/2015-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs, including those incurred in the course of the appeal proceedings.

Pleas in law

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

Action brought on 21 June 2016 — Grupo Riberebro Integral and Riberebro Integral v Commission
(Case T-313/16)
(2016/C 287/34)
Language of the case: Spanish

Parties

Applicants: Grupo Riberebro Integral, SL (Alfaro, Spain) and Riberebro Integral, SA (Alfaro, Spain) (represented by: R. Allendesalazar Corcho and A. Rincón García-Loygorri, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the General Court should:

- pursuant to Article 263 TFEU, annul Article 2 of Commission Decision C(2016) 1933 final of 6 April 2016 relating to a proceeding under 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement, in Case AT.39965 — Mushrooms, as regards the amount of the fine imposed on the applicants, since it is vitiated by a manifest error of assessment by the European Commission of the facts on the basis of which it refused to recognise the applicants' inability to pay;
- in the alternative, pursuant to the unlimited jurisdiction granted in Article 31 of Regulation (EC) No 1/2003 and in accordance with Article 261 TFEU, vary Article 2 of Commission Decision C(2016) 1933 final of 6 April 2016 relating to a proceeding under 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement, in Case AT.39965 — Mushrooms, reducing the fine imposed on Riberebro;
- order the European Commission to pay the costs of the present proceedings.

Pleas in law and main arguments

The present proceedings arise from the leniency application submitted by a specific company to the European Commission, in relation to that company's participation in a cartel in the canned mushrooms sector. As the text of the decision itself states, that cartel sought to stabilise the mushroom market and stop the decline of prices.

The applicants do not dispute the facts or their legal characterisation, which they have already accepted in cooperating in the leniency procedure and in their reply to the statement of objections, in which they stated that they accepted the description and legal assessment of the facts. In the present proceedings, it is the assessment and proportionality of the fine imposed which are contested.