

*Defendant:* Council of the European Union (represented by: M. Bauer and R. Meyer, acting as Agents)

**Re:**

Application under Article 270 TFEU seeking annulment of the decision of the Council of 8 February 2016 refusing to recognise the applicant's invalidity as arising from an occupational disease under the fifth paragraph of Article 78 of the Staff Regulations of Officials of the European Union.

**Operative part of the judgment**

*The Court:*

1. Annuls the decision of the Council of the European Union of 8 February 2016 refusing to recognise RI's invalidity as arising from an occupational disease under the fifth paragraph of Article 78 of the Staff Regulations of Officials of the European Union;
2. Orders the Council to pay the costs.

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<sup>(1)</sup> OJ C 70, 6.3.2017.

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**Judgment of the General Court of 12 July 2018 — Lotte v EUIPO — Nestlé Unternehmungen Deutschland (Representation of a koala bear)**

(Case T-41/17) <sup>(1)</sup>

**(EU trade mark — Opposition proceedings — Application for EU figurative mark representing koalas — Earlier national three-dimensional mark KOALA-BÄREN Schöller lustige Gebäckfiguren — Article 42(2) and (3) of Regulation (EC) No 207/2009 (now Article 47(2) and (3) of Regulation (EU) 2017/1001) — Proof of genuine use of the earlier mark — Power to alter decisions)**

(2018/C 328/62)

*Language of the case: German*

**Parties**

*Applicant:* Lotte Co. Ltd (Tokyo, Japan) (represented by: M. Knitter, lawyer)

*Defendant:* European Union Intellectual Property Office (represented by: D. Walicka, acting as Agent)

*Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court:* Nestlé Unternehmungen Deutschland GmbH (Frankfurt am Main, Germany) (represented by: A. Jaeger-Lenz, S. Cobet-Nüse and C. Elkemann, lawyers)

**Re:**

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 28 October 2016 (Case R 0250/2016-5), concerning opposition proceedings between Nestlé Schöller GmbH & Co. KG and Lotte.

**Operative part of the judgment**

*The Court:*

1. Annuls the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 28 October 2016 (Case R 0250/2016-5) in so far as, in that decision, the Board of Appeal upheld the opposition for 'pastries filled with chocolate cream; chocolate; confectionery products; pastry; cookies; crackers; edible ices; pastry and confectionery' in Class 30;

2. *Rejects the opposition brought by Nestlé Schöller GmbH & Co. KG, legal predecessor of Nestlé Unternehmungen Deutschland GmbH, for 'pastries filled with chocolate cream; chocolate; confectionery products; pastry; cookies; crackers; edible ices; pastry and confectionery' in Class 30;*
3. *Orders EUIPO to bear its own costs and to pay those incurred by Lotte Co Ltd for the purposes of the proceedings before the General Court;*
4. *Orders Nestlé Unternehmungen Deutschland to bear its own costs.*

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<sup>(1)</sup> OJ C 95, 27.3.2017.

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**Order of the General Court of 10 July 2018 — Izba Gospodarcza Producentów i Operatorów  
Urządzeń Rozrywkowych v Commission**

(Case T-514/15) <sup>(1)</sup>

*(Access to documents — Regulation (EC) No 1049/2001 — Request for access to detailed opinions issued  
in the course of a notification procedure under Directive 98/34/EC — Documents relating to an  
infringement procedure — Refusal to grant access — Disclosure after the action was brought — No need  
to adjudicate)*

(2018/C 328/63)

Language of the case: English

**Parties**

*Applicant:* Izba Gospodarcza Producentów i Operatorów Urządzeń Rozrywkowych (Warsaw, Poland) (represented by P. Hoffman, lawyer)

*Defendant:* European Commission (represented by F. Clotuche-Duvieusart and M. Konstantinidis, acting as Agents)

*Intervener in support of the applicant:* Kingdom of Sweden (represented by C. Meyer-Seitz, A. Falk, U. Persson, N. Otte Widgren, E. Karlsson and L. Swedenborg, acting as Agents)

*Intervener in support of the defendant:* Republic of Poland (represented by B. Majczyna, M. Kamejsza-Kozłowska and B. Paziewska, acting as Agents)

**Re:**

Action pursuant to Article 263 TFEU for annulment of the Commission Decisions GESTDEM 2015/1291 of 12 June 2015 and of 17 July 2015 refusing to grant the applicant access to the detailed opinions delivered, respectively, by the Commission and the Republic of Malta in the course of notification procedure 2014/537/PL.

**Operative part of the order**

1. *There is no longer any need to adjudicate on the action.*
2. *Izba Gospodarcza Producentów i Operatorów Urządzeń Rozrywkowych and the European Commission shall bear their own costs.*
3. *The Kingdom of Sweden and the Republic of Poland shall bear their own costs.*

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<sup>(1)</sup> OJ C 371, 9.11.2015.