

Judgment of the General Court of 24 April 2018 — VSM v EUIPO (WE KNOW ABRASIVES)(Case T-297/17) ⁽¹⁾

(European Union trade mark — Application for EU word mark WE KNOW ABRASIVES — Mark consisting of an advertising slogan — Competence of the Board of Appeal in appeals limited to part of the services covered by the application for registration — Article 64(1) of Regulation (EC) No 207/2009 (now Article 71(1) of Regulation (EU) 2017/1001) — Absolute ground for refusal — Lack of distinctiveness — Article 7(1)(b) of Regulation No 207/2009 (now Article 7(1)(b) of Regulation 2017/1001))

(2018/C 200/54)

Language of the case: German

Parties

Applicant: VSM.Vereinigte Schmirgel- und Maschinen-Fabriken AG (Hanover, Germany) (represented by: M. Horak, lawyer)

Defendant: European Union Intellectual Property Office (represented by: W. Schramek and A. Söder, acting as Agents)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 6 March 2017 (Case R 1595/2016-4) concerning an application for registration of the word sign WE KNOW ABRASIVES as an EU trade mark.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fourth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 6 March 2017 (Case 1595/2016-4) in so far as it refused registration of the word sign WE KNOW ABRASIVES for services in Class 35 corresponding to the following description: 'Advertising; commercial management services; secretariat services; wholesale service in the field of metallic construction products; commercial administration';
2. Rejects the remainder of the form of order sought of VSM.Vereinigte Schmirgel- und Maschinen-Fabriken AG;
3. Orders VSM.Vereinigte Schmirgel- und Maschinen-Fabriken AG and EUIPO each to bear its own costs.

⁽¹⁾ OJ C 231, 17.7.2017.

Judgment of the General Court of 23 April 2018 — Genomic Health v EUIPO (ONCOTYPE DX GENOMIC PROSTATE SCORE)(Case T-354/17) ⁽¹⁾

(EU trade mark — Application for EU word mark ONCOTYPE DX GENOMIC PROSTATE SCORE — Absolute ground for refusal — Descriptiveness — Article 7(1)(c) of Regulation (EC) No 207/2009 (now Article 7(1)(c) of Regulation (EU) 2017/1001) — Equal treatment)

(2018/C 200/55)

Language of the case: English

Parties

Applicant: Genomic Health, Inc. (Redwood City, California, United States of America) (represented by: A. Reid, Solicitor)