

2. Second plea in law, alleging that Article 42c of the Staff Regulations is unlawful, in so far as it disregards the recitals of Regulation (EU, Euratom) No 1023/2013 of the European Parliament and of the Council of 22 October 2013 amending the Staff Regulations of Officials of the European Union and the Conditions of Employment of Other Servants of the European Union (OJ 2013 L 287, p. 15), in particular the possibility of making it easier for officials to work until the age of 67 or, in exceptional circumstances, until the age of 70.
3. Third plea in law, alleging infringement of the principle of proportionality, the principle of legitimate expectations and the duty to have regard to the welfare of staff. It is also alleged that there has been a manifest error of assessment in the present case.

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**Action brought on 17 March 2017 — M & K v EUIPO — Genfoot (KIMIKA)**

(Case T-171/17)

(2017/C 144/77)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* M & K Srl (Prato, Italy) (represented by: F. Caricato, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* Genfoot, Inc. (Montreal, Québec, Canada)

**Details of the proceedings before EUIPO**

*Applicant of the trade mark at issue:* Applicant

*Trade mark at issue:* EU word mark 'KIMIKA' — Application for registration No 13 233 391

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 12 January 2017 in Case R 1206/2016-4

**Form of order sought**

The applicant claims that the Court should:

- recognize and declare that the recourse presented by the applicant is admissible and well founded; and consequently
- reform the contested decision;
- send the case back to EUIPO for a reforming decision and therefore give way to a definitive registration of the EU trade mark No 13 233 391 even in the classes contested;
- condemn the counterpart to pay fees and costs of the three proceeding.

**Pleas in law**

- Infringement of Article 15 of Regulation No 207/2009;
  - The Board of Appeal erred when it assessed the risk of confusion between the trade marks.
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