

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Viania Dessous GmbH (Mössingen, Germany)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: International registration designating the European Union in respect of the word mark ‘VIANEL’ — Application for registration No 1 181 484

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 14 July 2017 in Case R 285/2017-5

Form of order sought

The applicant claims that the Court should:

- uphold the applicant’s application;
- annul the contested decision;
- order the Opponent to pay the Applicant’s costs of this Application and the proceedings before the Office.

Plea in law

- The Board of Appeal infringed the applicable provisions of the European Trade Mark Regulation when it assessed the relevance of the evidence of use filed by the opponent, the similarity of the goods and of the signs in question, and the risk of confusion.

Action brought on 24 October 2017 — Clestra Hauserman v Parliament

(Case T-725/17)

(2018/C 013/36)

Language of the case: French

Parties

Applicant: Clestra Hauserman (Illkirch-Graffenstaden, France) (represented by: J. Gehin, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- annul the decision of the European Parliament set out in its letter of 24 August 2017 notifying the applicant of the rejection of the tender that it had submitted for Lot 55 in the context of call for tenders INLO–D–UPL–T–16–AO8 relating to the project to extend and modernise the [Konrad Adenauer] Building in Luxembourg (‘the rejection decision’) and the decision awarding that lot to another tenderer (‘the award decision’);
- order the European Parliament to pay to the applicant damages amounting to EUR 1 000 893 in respect of non-contractual liability, and in any event the amount of EUR 50 000 in respect of the cost of preparing the tender submitted in the context of call for tenders No 2014/S 123 218302;
- order the European Parliament to pay all costs in the case.

Pleas in law and main arguments

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

1. First plea in law, alleging irregularities in the decision to eliminate the Clestra Hauserman company in so far as that decision is based on a second procurement procedure that was improperly initiated under contract notice No 2016/S 215-391081 of 8 November 2016 following the first procurement procedure, which had resulted in the applicant company being awarded the contract.
2. Second plea in law, alleging an absence of explanation as to the admissibility of the tender of the undertaking that won the contract pursuant to the provisions of the Specifications relating to the financial and technical capacities of that undertaking (Articles 12 and 13 of the Tender Specifications) and the documents required in the Invitation to Tender (Articles I to VI.G).
3. Third plea in law, alleging the inadmissibility of the tender of the undertaking that won the contract in so far as the impropriety of that tender ought to have been established in view of its abnormally low price and, for that reason, its selection constitutes a manifest error of assessment.
4. Fourth plea in law, alleging an infringement of the principle of equal treatment and transparency with regard to the procedure in the second call for tenders.

Action brought on 24 October 2017 — Commune de Fessenheim and Others v Commission**(Case T-726/17)**

(2018/C 013/37)

*Language of the case: French***Parties**

Applicants: Commune de Fessenheim (Fessenheim, France), Communauté de communes Pays Rhin-Brisach (Volgelsheim, France), Conseil départemental du Haut-Rhin (Colmar, France) and Conseil régional Grand Est Alsace Champagne-Ardenne Lorraine (Strasbourg, France) (represented by: G. de Rubercy, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the decision of 10 August 2017 (GESTDEM 2017/2593) refusing to communicate to the applicants the letter from the European Commission of 22 March 2017 to the French authorities regarding the protocol for the compensation of the EDF Group in respect of the repeal of the permit to operate the Fessenheim Nuclear Power Plant;
- order the European Commission to communicate that letter of 22 March 2017 to the applicants;
- order the European Commission to pay all of the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on three pleas in law.

1. First plea in law, alleging infringement of the last subparagraph of Article 4(2) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).