Action brought on 2 November 2017 — GMPO v Commission

(Case T-733/17)

(2018/C 013/40)

Language of the case: English

Parties

Applicant: GMP-Orphan (Paris, France) (represented by: M. Demetriou, QC, E. Mackenzie, barrister, L. Tsang and J. Mulryne, solicitors)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul Article 5 of Commission Implementing Decision of 5 September 2017 granting marketing authorisation under Regulation (EC) No 726/2004 ([1]) for 'Cuprior-trientine', a medicinal product for human use;

— order the defendant to provide that Cuprior be classified as an orphan medicinal product and the Community Register of Orphan Medicinal Products updated accordingly; and

— order the defendant to pay the applicant's costs.

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 that Article 5 of the contested decision was based upon an erroneous interpretation of the term 'significant benefit' in Article 3(1)(b) of Regulation (EC) 141/2000 ('the Orphan Regulation').

   — The Committee for Orphan Medical Products (COMP)/Commission erred by failing to recognise — in line with the aims of the harmonised pharmaceutical legislation as a whole, and the wording of the Orphan Regulation specifically — that the greater availability of Cuprior across the EU constituted a significant benefit for the purposes of the legislation.

2. Second plea in law, alleging that the COMP/Commission misdirected itself in law and/or committed a manifest error of assessment in applying Article 3(1)(b) of the Orphan Regulation.

   — The COMP/Commission failed to recognise that any problem with the availability of trientine in the EU would automatically result in patients having unmet needs or suffering harm (although it was not in fact necessary for the applicant to demonstrate patient harm under the applicable guidance).

3. Third plea in law, alleging an error in law and/or a breach of the principles of legitimate expectations and/or procedural fairness in applying later guidance to the designation and review of Cuprior.

   — The applicant alleges that the COMP/Commission acted unfairly and/or breached the applicant's legitimate expectations by in substance applying the guidance of 2016 rather than that of 2003.

4. Fourth plea in law, alleging that the COMP/Commission committed a manifest error of assessment in evaluating and rejecting the evidence put forward by the applicant as to the lack of availability of trientine.

(1) Regulation (EC) No 726/2004 of the European Parliament and of the Council of 31 March 2004 laying down Community procedures for the authorisation and supervision of medicinal products for human and veterinary use and establishing a European Medicines Agency (Text with EEA relevance) (OJ 2004 L 136, p. 1).

Action brought on 30 October 2017 — Lincoln Global/EUIPO (FLEXCUT)

(Case T-736/17)

(2018/C 013/41)

Language of the case: English

Parties

Applicant: Lincoln Global, Inc. (Santa Fe Springs, California, United States) (represented by: K. Piepenbrink, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'FLEXCUT' — Application for registration No 15 111 198

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 30 August 2017 in Case R 2225/2016-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

Plea in law

— Infringement of Articles 7(1)(b) and (c) Regulation No 207/2009.

Action brought on 30 October 2017 — Trasys International and Axianseu Digital Solutions v EASA

(Case T-741/17)

(2018/C 013/42)

Language of the case: French

Parties

Applicants: Trasys International GEIE (Brussels, Belgium) and Axianseu Digital Solutions SA (Lisbon, Portugal) (represented by: L. Masson and G. Tilman, lawyers)

Defendant: European Aviation Safety Agency (EASA)