

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: European Union word mark '1000 PANORAMICZNYCH' — Application for registration No 15 299 671

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 15 December 2017 in Case R 2208/2016-5

Form of order sought

The applicant claims that the Court should:

- amend the decision of the Fifth Board of Appeal by upholding the applicant's appeal and registering the trade mark '1000 PANORAMICZNYCH' on the basis of the finding that the word sign '1000 PANORAMICZNYCH' does not meet the conditions laid down in Article 7(1) of Regulation 2017/1001, in particular points (b) and (c) thereof, and there are therefore no grounds for refusing to register the trade mark;

and/or

- declare, in accordance with Article 7(3) of Regulation 2017/1001, that the word sign '1000 PANORAMICZNYCH' has acquired distinctive character through use (secondary distinctiveness), and there are therefore no grounds for refusing to register the trade mark, and in particular none of the conditions set out in Article 7(1)(b), (c) and (d) of that regulation apply;

in the alternative

- annul the decision of the Fifth Board of Appeal and order the European Union Intellectual Property Office ('EUIPO') to review the application for registration of the word mark '1000 PANORAMICZNYCH' as an EU trade mark (application for registration No 15 299 671), in particular with a view to removing any current irregularities, finding that the word sign '1000 PANORAMICZNYCH' does not meet the conditions laid down in Article 7(1) of Regulation 2017/1001, in particular points (b) and (c) thereof, and there are therefore no absolute grounds for refusal;

and/or

- declare, in accordance with Article 7(3) of Regulation 2017/1001, that the word sign '1000 PANORAMICZNYCH' has acquired distinctive character through use (secondary distinctiveness), and there are therefore no grounds for refusing to register the trade mark, and in particular none of the conditions set out in Article 7(1)(b), (c) and (d) of that regulation apply;
- order EUIPO to pay the costs.

Plea in law

Infringement of Article 7(1)(b), (c) and (d) of Regulation 2017/1001.

Action brought on 27 February 2018 — Lidl Stiftung v EUIPO — Shimano Europe (PRO)

(Case T-122/18)

(2018/C 142/81)

Language in which the application was lodged: English

Parties

Applicant: Lidl Stiftung & Co. KG (Neckarsulm, Germany) (represented by: A. Berger and A. Marx, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Shimano Europe BV (Nunspeet, Netherlands).

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU figurative mark PRO — Application for registration No 14 468 904

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 7 December 2017 in Case R 1332/2017-5.

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and reject Opposition No 002654773 filed against EUTM application No 014 468 904;
- order EUIPO to pay the costs of the proceedings;
- order Shimano Europe B.V. to pay the costs of the proceedings before the EUIPO.

Pleas in law

- Infringement of Article 7(1)(b) and (c) of Regulation No 2017/1001;
- Infringement of Article 8(1)(b) of Regulation No 2017/1001.

Action brought on 27 February 2018 — Bayer Intellectual Property v EUIPO (Representation of a heart)

(Case T-123/18)

(2018/C 142/82)

Language of the case: German

Parties

Applicant: Bayer Intellectual Property GmbH (Monheim am Rhein, Germany) (represented by: V. von Bomhard and J. Fuhrmann, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU figurative mark (Representation of a heart) — Application for registration No 15 701 568

Contested decision: Decision of the First Board of Appeal of EUIPO of 7 December 2017 in Case R 145/2017-1

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;