Action brought on 28 March 2018 — Torrefazione Caffè Michele Battista v EUIPO — Battista Nino Caffè (BATTISTINO)

(Case T-221/18)

(2018/C 190/62)

Language in which the application was lodged: Italian

Parties

Applicant: Torrefazione Caffè Michele Battista Srl (Triggiano, Italy) (represented by: V. Franchini, F. Paesan and R. Bia, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Battista Nino Caffè Srl (Triggiano, Italy)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: International registration designating the European Union in respect of the mark BATTISTINO — International registration designating the European Union No 1 070 313

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 22 January 2018 in Case R 402/2017-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and consequently reject the application for a declaration of invalidity of the mark at issue;

— order EUIPO and Battista Nino Caffè Srl to pay the costs of the present proceedings and of the two earlier sets of proceedings before the Cancellation Division of EUIPO and the Fifth Board of Appeal of EUIPO.

Pleas in law

— Infringement of Articles 64(2), 60(1)(a) and 8(1)(b) of Regulation 2017/1001.

Action brought on 26 March 2018 — Casa Regina Apostolorum della Pia Società delle Figlie di San Paolo v Commission

(Case T-223/18)

(2018/C 190/63)

Language of the case: Italian

Parties

Applicant: Casa Regina Apostolorum della Pia Società delle Figlie di San Paolo (Albano Laziale, Italy) (represented by: F. Rosi, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

— as a preliminary matter, declare the contested decision unlawful on the ground that it is drafted in English rather than in Italian;

— uphold the present action and consequently annul the Commission's decision for lack of grounds and thus for not being based on established conditions of inquiry;

— recognise that the SGEI scheme applies to the Italian healthcare system, and that the principles set out in the judgment of the Court of Justice of the European Union in the *Altmark* case of 2003 with regard to Articles 106 TFEU and 107 TFEU for the purposes of the application of State aid are therefore applicable. As a result, the Court should examine the Lazio Region's actions regarding the remuneration of public facilities, which should have complied with the principles established by the abovementioned rules and therefore should have limited the payments to the healthcare facilities under public ownership to the forecast reimbursement of costs according to the criteria set out in the *Altmark* judgment relating to the so-called average establishment, and declare that excessive financing constitutes overcompensation;

— recognise that the Lazio Region must remunerate the applicant in accordance with the average-undertaking principle and therefore also by taking into account the increases in labour costs in regard to all employees working in that establishment from 2005 to 2006, fixing this as a parameter for subsequent years;

— give effect to all legal consequences thus arising, including ordering the Commission to pay the costs of the proceedings as well as the costs incurred by the applicant.

Pleas in law and main arguments

The present action is directed against Commission Decision C (2017) 7973 final of 4 December 2017, which rejected the complaint brought by the applicant, an Italian religious hospital, concerning the alleged compensation of costs incurred by public hospitals in the Lazio Region. The contested decision finds that the measures under challenge do not amount to State aid.

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

1. First, the applicant objects to the use of English for drafting the authentic language version of the final decision.

2. The second plea in law alleges a failure to state adequate reasons. The Commission entirely omitted to consider certain substantial aspects of the question and failed to rebut certain objections raised by the applicant and proven by the documents submitted. The Commission is required to answer all questions raised by the applicant by virtue of the principles of transparency and good faith.

3. As the third plea in law, the applicant challenges the claim that in Italian law the healthcare system is characterised by the universality of care, that is to say, that 100 % of healthcare is provided by the national health service. In addition, the applicant complains that the Commission does not have proof that the Italian State funds, and therefore covers, 100 % of its own citizens' care, a claim which, it is submitted, fails entirely to correspond to the facts. The applicant contends that universality is not an abstract concept but must be concretely identified, verifiable and perceivable and cannot be assumed to exist merely because the Italian Government says so.

Action brought on 3 April 2018 — Microsemi Europe and Microsemi v Commission

(Case T-227/18)

(2018/C 190/64)

Language of the case: German

Parties

Applicants: Microsemi Europe Ltd (Reading, United Kingdom) and Microsemi Corp. (Aliso Viejo, California, United States) (represented by: D. Aulfes and J. Lenz, lawyers)