— order the other party to pay the costs incurred by the Applicant.

Plea in law

— Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 30 May 2018 — Enterprise Holdings v EUIPO (E PLUS)

(Case T-339/18)

(2018/C 268/52)

Language of the case: English

Parties

Applicant: Enterprise Holdings, Inc. (Saint Louis, Missouri, États-Unis) (represented by: D. Farnsworth, Solicitor)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for European Union word mark E PLUS — Application for registration No 16 377 079

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 15 March 2018 in Case R 2141/2017-4

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— accept the Application for publication;

— order EUIPO to bear its own and pay the Applicant's costs.

Plea in law

— Infringement of Article 7 of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 1 June 2018 — BNP Paribas v ECB

(Case T-345/18)

(2018/C 268/53)

Language of the case: French

Parties

Applicant: BNP Paribas (Paris, France) (represented by: A. Gosset-Grainville, M. Trabucchi and M. Dalon, lawyers)

Defendant: European Central Bank

Form of order sought

The applicant claims that the Court should:

— annul in part the decision of the ECB No ECB-SSM-2018-FRBNP-17 of 26 April 2018 in so far as it imposes a deduction of the irrevocable payment commitments ('IPCs') taken out with the Single Resolution Fund ('SRF'), national resolution funds and deposit guarantee schemes ('DGS') from Common Equity Tier 1 capital, on an individual, sub-consolidated or consolidated basis, and in particular paragraphs 9.1, 9.2 and 9.3;

— order the ECB to pay all of the 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 a lack of legal basis. In this regard, the applicant submits that the contested decision creates a new rule of general application which goes clearly beyond the legal framework governing the defendant's exercise of its prudential supervision tasks.

   Furthermore, by adopting a decision taken without prior analysis of the solvency and liquidity risk and without regard for the applicant's risk profile, the defendant exceeded the powers laid down in Articles 4(1)(f) and 16 of Council Regulation (EU) No 1024/2013 of 15 October 2013 conferring specific tasks on the European Central Bank (ECB) concerning policies relating to the prudential supervision of credit institutions (OJ 2013 L 287, p. 63) ('the SSM Regulation').

   Finally, the applicant submits that Article 16(1)(c) of the SSM Regulation does not authorise the ECB to act to ensure 'better information on risks' and that Articles 4(1)(f) and 16(2)(d) of the SSM Regulation do not authorise the adoption of prudential measures in respect of off-balance-sheet items.

2. Second plea in law, alleging an error of law in so far as the defendant misinterpreted the EU legislation establishing the possibility for credit institutions to make use of IPCs to fulfil part of their obligations vis-à-vis resolution funds and deposit guarantee schemes. The contested decision runs counter to the objectives and purpose of the applicable rules to the extent that it disregards the intention of the legislature manifested through the implementation of those instruments. By doing so, that decision renders the provisions at issue ineffective.

3. Third plea in law, alleging infringement of the principle of proportionality, in so far as the imposition of a deduction of IPCs from its own funds is inappropriate and unnecessary in respect of a risk which is purely hypothetical and already covered. According to the applicant, that measure is disproportionate in the light of the objective set by the ECB itself, which is to 'provide adequate information on financial risks'.

4. Fourth plea in law, alleging a manifest error of assessment and failure to observe the principle of sound administration. The applicant claims that, by choosing to use an instrument (deduction from own funds) which is clearly unsuited to the objective that it purports to pursue (to provide adequate information on risks), the defendant has failed to observe the principle of sound administration, in so far as it has failed to draw the appropriate conclusions from its own assessments.