

Judgment of the General Court of 13 July 2018 — Star Television Productions v EUIPO — Marc Dorcel (STAR)

(Case T-797/17) ⁽¹⁾

(EU trade mark — Revocation proceedings — EU figurative mark STAR — No genuine use of the mark — Article 51(1)(a) of Regulation (EC) No 207/2009 (now Article 58(1)(a) of Regulation (EU) 2017/1001))

(2018/C 352/40)

Language of the case: French

Parties

Applicant: Star Television Productions Ltd (Tortola, United Kingdom) (represented by: D. Farnsworth, lawyer)

Defendant: European Union Intellectual Property Office (represented by: V. Ruzek, acting as agent)

Other party to the proceedings before the Board of Appeal of EUIPO: Marc Dorcel SA (Paris, France) (represented by: B. Soyer, lawyer)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 14 September 2017 (Case R 1519/2016-2), relating to revocation proceedings between Star Television Productions and Marc Dorcel.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Star Television Productions Ltd to bear the costs.*

⁽¹⁾ OJ C 42, 5.2.2018.

Action brought on 27 June 2018 — WV v EEAS

(Case T-388/18)

(2018/C 352/41)

Language of the case: French

Parties

Applicant: WV (represented by: É. Boigelot, lawyer)

Defendant: European External Action Service

Form of order sought

The applicant claims that the General Court should:

— declare the present application admissible and well founded;

- and accordingly, after first ordering the defendant, pursuant to Article 89(3)(d) of the Rules of Procedure of the General Court, which provides for ‘measures of organisation of procedure’, to produce all the material and documents relating to the present case, including the mandate and findings of the internal security investigation carried out by the Appointing Authority; all EEAS documents and decisions produced internally in connection with the accusations alleging extraction of documents and possible transmission of information by the applicant to a third State (Israel/Turkey), exact dates, the information allegedly shared and concrete evidence, the information sent to and the response from its security service; the internal documents and/or decisions apparently produced or taken in connection with the incident of 27 July 2016 and, in particular, a note from the Secretary General of the EEAS concerning the applicant’s exclusion from the Turkey Division; the email sent by Ms [X] in September 2015 to Mr [Y] which apparently referred to ‘serious problems relating predominantly to her conduct’; information relating to the nature of the various transfers to which she was subject in order to clarify whether the transfers were made on the basis of her post and/or additional posts; the terms of reference of the national experts made available to the EEAS Turkey Division, reflecting the agreement concluded with individual Member States in June 2015 in view of the establishment of that division; the minutes of the meeting of 18 May 2017 between the applicant, a representative of the Staff Committee and the appointing authority; the email exchanges which took place on 10 July 2017 between Mr [Z] and the Head of the EU Delegation to Turkey;
- annul the implied decision rejecting the request for assistance based on Article 24 of the Staff Regulations, made on 4 September 2017;
- annul the decision of 28 March 2018, reference Ares(2018)1705593, served on the same date, by which the Appointing Authority rejected the applicant’s complaint lodged on 29 November 2017, under reference R/510/17, against the implied decision rejecting the request for assistance based on Article 24 of the Staff Regulations;
- order the defendant to pay all costs, in accordance with Article 134 of the Rules of Procedure of the General Court of the European Union.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law alleging breach of the duty to afford assistance and to have regard for the interests of members of staff, of Articles 1e(2), 12, 12a, 22b, 24, 25 and 26 of the Staff Regulations of Officials of the European Union (‘the Staff Regulations’), of the principle of good administration, of Articles 1 and 2 of Annex IX to the Staff Regulations, and of Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ 2001 L 8, p. 1).

In the context of that plea, the applicant also alleges infringement of, inter alia, Articles 41, 47 and 52 of the Charter of Fundamental Rights of the European Union, of the European Convention on Human Rights and Fundamental Freedoms, and of the rights of defence, as well as abuse of rights and abuse of process, in addition to the manifest breach of the principles of the protection of legitimate expectations and the equality of arms.

The applicant alleges lastly, in the context of that plea, breach of the principle that requires the administration to adopt a decision solely on the basis of legally permissible grounds, by which is meant grounds that are relevant and not vitiated by any manifest error of assessment, of fact or of law, and breach of the principle of proportionality, the adversarial principle, and the principles of sound administration and legal certainty, in addition to infringement 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. 1).

Thus, by the single plea raised, the applicant claims that, in adopting the contested decision in the conditions complained of and subsequently rejecting the applicant’s complaint, the appointing authority manifestly failed correctly to interpret and apply the provisions of the Staff Regulations and the abovementioned principles since its decision was based on grounds that are incorrect both in fact and in law and consequently placed the applicant in an unlawful administrative situation, with a complete lack of correspondence between the facts established and the rejection of the application for assistance.