

**Pleas in law**

- Infringement of Article 7(1)(b) and (c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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**Action brought on 28 January 2019 — View v EUIPO (CREATE DELIGHTFUL HUMAN ENVIRONMENTS)****(Case T-49/19)**

(2019/C 103/71)

*Language of the case: English***Parties***Applicant:* View, Inc. (Milpitas, Delaware, United States) (represented by: G. Tritton, Barrister)*Defendant:* European Union Intellectual Property Office (EUIPO)**Details of the proceedings before EUIPO***Trade mark at issue:* International registration designating the European Union in respect of the word mark CREATE DELIGHTFUL HUMAN ENVIRONMENTS — International registration designating the European Union No 1 381 213*Contested decision:* Decision of the Second Board of Appeal of EUIPO of 27 November 2018 in Case R 1625/2018-2**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs of the applicant.

**Pleas in law**

- Infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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**Action brought on 28 January 2019 — Casual Dreams v EUIPO — López Fernández (Dayaday)****(Case T-50/19)**

(2019/C 103/72)

*Language in which the application was lodged: Spanish***Parties***Applicant:* Casual Dreams, SLU (Manresa, España) (represented by: A. Tarí Lázaro, lawyer)*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* Miguel Ángel López Fernández (Fuensalida, Spain)

### **Details of the proceedings before EUIPO**

*Applicant for the trade mark at issue:* Other party to the proceedings before the Board of Appeal

*Trade mark at issue:* Application for EU figurative mark Dayaday — Application for registration No 13 243 563

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fifth Board of Appeal of EUIPO of 16 November 2018 in Case R 2097/2018-5

### **Form of order sought**

The applicant claims that the Court should:

- Annul in part the decision of the Second Board of Appeal of 27 November 2018 in Case R 2097/2018-5, which rejected in part the appeal against the decision of the Opposition Division of EUIPO No B 2 469 545 of 17 December 2015.
- Annul in part the contested decision, on the basis of Article 8(5) of the EUTMR, in so far as it upheld the rejection of the opposition and the appeal in respect of the goods in Classes 9, 16 and 24.
- Refuse the application for registration of EU trade mark No 13 243 563 submitted by the intervener in respect of the following goods:

Class 9: 'Optical devices, enhancers and correctors; Optical enhancers; Opticians' goods; Optical apparatus and instruments; Optical glass; Interchangeable lenses; Anti-reflective lenses; Plastic lenses; Ophthalmic lenses; Optical lenses; Lens; Sunglasses; Corrective eyewear; Cases for sunglasses; Correcting lenses [optics]; Glass ophthalmic lenses; Frames for spectacles and sunglasses; Chains for sunglasses; Clip-on sunglasses; Straps for sunglasses; Lenses for sunglasses; Optical lenses for use with sunglasses; Frames for sunglasses; Prescription eyewear; Pince-nez chains; Pince-nez cords; Lenses for eyeglasses; Optical glasses; Holders for contact lenses; Cases adapted for contact lenses; Glasses cases; Lens cases; Containers for contact lenses; Spectacles [optics]; Reading glasses; Children's eye glasses; Polarizing spectacles; Frames for glasses; Unmounted spectacle frames; Bars for spectacles; Eyeglass shields; Spectacle holders; Spectacles [optics]; Eyeglasses; Corrective eyewear; Spectacle holders; Snow goggles; Cyclists' glasses; Frames for glasses; Pince-nez chains; Goggles for sports; Glasses cases; Frames for sunglasses; Snow goggles; Swim goggles; Goggles for sports; Goggles for sports'.

Class 16: 'Adhesives for stationery or household purposes; Works of art and figurines of paper and cardboard, and architects' models; Stationery supplies; Money holders; Adhesives for stationery; Paper bags and sacks; Appointment books; Catalogues; Leather covered diaries; Printed advertisements; Photograph stands; Printing and bookbinding equipment; Writing and stamping implements; Educational equipment; Knives (Paper -) [office requisites]; Agendas; Desk trays; Stationery; Office requisites; Writing materials; Writing stationery; Office stationery; School supplies [stationery]; Bookends; Pen trays'.

Class 24: 'Fabrics; Curtains; Coverings for furniture; Household textile articles; Household textile articles made from non-woven materials; Linens; Wall hangings; Soft furnishings; Non-woven textile articles; Interlinings made of non-woven fabrics; Hat linings, of textile, in the piece; Linings [textile]; Handkerchiefs of textile; Textile tissues; Textile goods, not included in other classes; Handkerchiefs; Textiles made of linen; Textiles made of flannel; Traced cloths for embroidery; Wash cloths; Towels [textile] for kitchen use; Textiles, not included in other classes; Interfacings; Fleece made from polypropylene; Fleece made from polyester; Fabric linings for clothing; Foulard [fabric]; Textile piece goods made of cotton; Synthetic textile piece goods; Textile fabrics in the piece; Canvas; Materials for soft furnishings; Materials for use in making clothes; Suiting materials [textile]; Textiles for making up into articles of clothing; Textile fabrics for making up into household textile articles; Textile fabrics for use in the manufacture of sportswear; Textile fabrics for the manufacture of clothing; Fabric for use in the manufacture of wallets; Fabric of imitation animal skins; Fabric for manufacturing women's outerwear; Denim fabric; Fabric used for orthotic devices; Waterproof fabrics for use in the manufacture of trousers; Waterproof fabrics for use in the manufacture of jackets; Waterproof fabrics for use in the manufacture of hats; Waterproof fabrics for use in the manufacture of gloves; Fabrics for use as linings in clothing; Apparel fabrics; Coated fabrics for use in the manufacture of leather goods; Coated fabrics for use in the manufacture of rainwear; Woven fabrics imitating leather; Textiles impervious to water but permeable to moisture; Textile piece goods for making-up into towels'.

- Order EUIPO to pay the costs, including the costs incurred by the applicant in the proceedings before the Board of Appeal of EUIPO.

#### **Pleas in law**

Infringement of Article 8(1)(b) and (5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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### **Action brought on 29 January 2019 — Laboratorios Ern v EUIPO — SBS Bilimsel Bio Çözümler Sanayi Ve Ticaret (apiheal)**

**(Case T-51/19)**

(2019/C 103/73)

*Language in which the application was lodged: Spanish*

#### **Parties**

*Applicant:* Laboratorios Ern, SA (Barcelona, Spain) (represented by: S. Correa Rodríguez, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* SBS Bilimsel Bio Çözümler Sanayi Ve Ticaret AŞ (Istanbul, Turkey)

#### **Details of the proceedings before EUIPO**

*Applicant for the trade mark at issue:* Other party to the proceedings before the Board of Appeal

*Trade mark at issue:* Application for EU figurative mark apiheal — Application for registration No 14 411 557

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 19 November 2018 in Case R 1725/2017-4