

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: International registration designating the European Union in respect of the figurative mark representing a chequer-board pattern — International registration designating the European Union No 2 829 851

Contested decision: Decision of the Second Board of Appeal of EUIPO of 22 November 2018 in Case R 274/2017-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs incurred by the applicant during these proceedings;
- order Norbert Wisniewski to pay the costs incurred by the applicant in these proceedings.

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(3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 59(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 59(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 20 February 2019 — ACRE v Parliament

(Case T-107/19)

(2019/C 139/88)

Language of the case: English

Parties

Applicant: Alliance of Conservatives and Reformists in Europe (ACRE) (Brussels, Belgium) (represented by: E. Plasschaert and E. Montens, lawyers)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- annul the European Parliament's decision of 10 December 2018, contained in the letter of 12 December 2018 bearing the reference D202862 on the applicant's final grant for 2017, in as much as it:
 - reclassified the amount related to the 'Survey on attitude on UK minority groups in the EU', namely EUR 108 985.58, as a non-eligible expenditure to be reimbursed based on the alleged non-compliance with Article 7 of Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003; ⁽¹⁾
 - reclassified the amount related to the 'UK Trade Partnership Conference', namely EUR 122 295.10, as a non-eligible expenditure to be reimbursed based on an alleged non-compliance with Article 7 of Regulation No 2004/2003;
 - reclassified the amount related to the 'Conservative International — Miami Conference of 26-27 May 2017', namely EUR 249 589.17, as a non-eligible expenditure to be reimbursed based of an alleged non-compliance with Article 8 of Regulation No 2004/2003;
 - reclassified the amount related to the 'Conservative International — Kampala Conference of 13-15 July 2017', namely EUR 91 546.58, as non-eligible expenditure to be reimbursed based of an alleged non-compliance with Article 8 of Regulation No 2004/2003;
 - hold that the payment of the membership fee of EUR 133 043.80 by the Prosperous Armenian Party is subject to the limit of EUR 12 000 imposed on donations; and forced the applicant to return the excess over EUR 12 000 to the said member, i.e. the amount of EUR 121 043.80;
- annul the contribution decision with number FINS-2019-5, in as much as it renders the payment by the European Parliament of 100 % of the pre-financing amount of EUR 4422 345.48, dependent on the reimbursement prior to 15 January 2019 of (i) the amount of EUR 535 609.48 to the European Parliament of (ii) any payment unduly received by any third party to such third party and, as a consequence, annul Article 1.5.1 of the special terms and conditions attached to said contribution decision;
- order the defendant to pay the costs.

Pleas in law and main arguments

In support of the first action, the applicant relies on thirteen pleas in law.

Pleas related to all disputed aspects of the decision:

1. First plea in law, alleging a breach of the principle of good administration, of Articles 7 and 8 of the decision of the Bureau of the European Parliament of 29 March 2004 laying down the procedures for implementing Regulation No 2004/2003, Article II.14.1 of the 2017 grant award decision and a violation of the applicant's right of the defence.
2. Second plea in law, alleging a breach of Article 9(3) of Regulation 2004/2003.

Pleas in respect of the reclassification of the amount of EUR 1 08 985.58 as non-eligible and to be reimbursed:

3. Third plea in law, alleging a breach of Article 7 of Regulation 2004/2003, at the least a manifest error of assessment.
4. Fourth plea in law, alleging a breach of the EU general principle of legal certainty.
5. Fifth plea in law, alleging a breach of the EU general principle of equal treatment.

Pleas in respect of the reclassification of the amount of EUR 1 22 295.10 as non-eligible and to be reimbursed:

6. Sixth plea in law, alleging a breach of Article 7 of Regulation 2004/2003, at the least a manifest error of assessment.
7. Seventh plea in law, alleging a breach of the EU general principle of equal treatment.

Pleas in respect of the reclassification of the amounts of EUR 249 589.17 and of EUR 91 546.58 as non-eligible and to be reimbursed:

8. Eighth plea in law, alleging a breach of Article 8 of Regulation 2004/2003, Article 10(4) TEU, Article 204a of the financial regulation as well as of Articles 11 and 12 of the Charter of Fundamental Rights of the European Union, at the least a manifest error of assessment.
9. Ninth plea in law, alleging a breach of the EU principle of legal certainty.
10. Tenth plea in law, alleging a breach of the EU general principle of equal treatment and non-discrimination.

Pleas in respect of the reclassification of the amount of EUR 1 33 043 and the order to reimburse EUR 121 043.80:

11. Eleventh plea in law, alleging a breach of Articles 2 and 6 of Regulation 2004/2003, at the least a manifest error of assessment.
12. Twelfth plea in law, alleging a breach of the EU principle of legal certainty.
13. Thirteenth plea in law, alleging a breach of the EU principle of equal treatment and non-discrimination.

In support of the second action, the applicant relies on two pleas in law.

1. First plea in law, alleging a breach of the principle of good administration, of Article 19 of Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 (?) and a violation of the applicant's right of the defence.

2. Second plea in law, alleging a breach of Article 6(1) of the decision of the Bureau of the European Parliament of 28 May 2018 laying down the procedures for implementing Regulation No 1141/2014.

⁽¹⁾ Regulation (EC) No 2004/2003 of the European Parliament and of the Council of 4 November 2003 on the regulations governing political parties at European level and the rules regarding their funding (OJ L 297, 15.11.2003, p. 1).

⁽²⁾ Regulation (EU, Euratom) No 1141/2014 of the European Parliament and of the Council of 22 October 2014 on the statute and funding of European political parties and European political foundations (OJ L 317, 4.11.2014, p. 1).

Action brought on 20 February 2019 — Kerry Luxembourg/EUIPO — Döhler (TasteSense By Kerry)

(Case T-108/19)

(2019/C 139/89)

Language of the case: English

Parties

Applicant: Kerry Luxembourg Sàrl (Luxembourg, Luxembourg) (represented by: A. von Mühlendahl and H. Hartwig, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Döhler GmbH (Darmstadt, Germany)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union figurative mark TasteSense By Kerry — Application for registration No 15 820 509

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 27 November 2018 in Case R 1179/2018-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- dismiss the opposition brought by Döhler GmbH against the registration of the mark TasteSense By Kerry No. 15 820 509;
- order EUIPO and Döhler, if it should intervene in these proceedings, to pay the costs.

Plea in law

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