

6. Sixth plea in law, alleging an infringement of Article 168 (3) TFEU by failing to ensure via Listex™ P100 protection and prevention from Listeria.
7. Seventh plea in law, alleging an infringement of Article 14(9) of Regulation (EC) 178/2002 <sup>(3)</sup> and of the fundamental freedom of free circulation of goods.
8. Eighth plea in law, alleging an infringement of legal expectations of the applicant as since 2006 Listex™ P100 was in the market and in 2016 EFSA declared it safe.

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(1) Regulation (EC) No 853/2004 of the European Parliament and of the Council of 29 April 2004 laying down specific hygiene rules for food of animal origin (OJ 2004 L 139, p. 55).

(2) Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ 2011 L 55, p. 13).

(3) Regulation (EC) No 178/2002 of the European Parliament and of the Council of 28 January 2002 laying down the general principles and requirements of food law, establishing the European Food Safety Authority and laying down procedures in matters of food safety (OJ 2002 L 31, p. 1).

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**Action brought on 5 September 2019 — Bartolomé Alvarado and Grupo Preciados Place v EUIPO —  
Alpargatas (ALPARGATUS PASOS ARTESANALES)**

(Case T-606/19)

(2019/C 372/34)

*Language in which the application was lodged: Spanish*

**Parties**

*Applicants:* José Fernando Bartolomé Alvarado (Madrid, Spain) and Grupo Preciados Place, SL (Madrid, Spain) (represented by: P. García Remacha, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Alpargatas SA (São Paulo, Brazil)

**Details of the proceedings before EUIPO**

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

*Trade mark at issue:* Figurative mark ALPARGATUS PASOS ARTESANALES — European Union trade mark No 14 750 624

*Procedure before EUIPO:* Proceedings for a declaration of invalidity

*Contested decision:* Decision of the First Board of Appeal of EUIPO of 20 June 2019 in Case R 1825/2018-1

**Form of order sought**

The applicants claim that the Court should:

- Find that the action brought against the decision of the First Board of Appeal dated 20 June 2019, which was notified to the applicants on 5 July 2019, has been submitted in due form and within the corresponding deadline; and, by way of the appropriate procedural steps, give judgment upholding the present action and, accordingly, annul the contested decision, reject any and all of the claims of the company ALPARTAGAS S.A., and order that the registration of EU trade mark No 14 750 624 be maintained, with all the legal consequences associated therewith.

**Pleas in law**

- Challenge to the contested decision with regard to the *res judicata* relied on by the applicant;
  - Challenge to the Office's assessment of the similarity between the opposing marks;
  - The decision creates a monopoly of the name 'alpargata', thereby infringing the trade mark regime and the position adopted by the Office itself;
  - No likelihood of association or confusion.
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**Action brought on 5 September 2019 — Itinerant Show Room v EUIPO (FAKE DUCK)****(Case T-607/19)**

(2019/C 372/35)

*Language of the case: Italian***Parties**

*Applicant:* Itinerant Show Room Srl (San Giorgio in Bosco, Italy) (represented by: E. Montelione, lawyer)

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

**Details of the proceedings before EUIPO**

*Trade mark at issue:* Application for European Union figurative mark FAKE DUCK — Application for registration No. 17 946 879

*Contested decision:* Decision of the Second Board of Appeal of EUIPO of 1 July 2019 in Case R 830/2019-2

**Form of order sought**

The applicant claims that the Court should:

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

**Pleas in law**

- Failure to take into account the inherent distinctive character of the mark FAKE DUCK;
  - Failure to take into account the complexity of the mark FAKE DUCK and the picture of an egg;
  - Misapplication of the principle of equal treatment;
  - Misapplication of the principle of legality.
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