

2. Second plea in law, alleging a serious or manifest infringement of EU law.

— In this regard the applicants claim that the European Commission prevented the recapitalisation of Banca [delle] Marche by the F.I.T.D. on the grounds that the measure would constitute State aid. However, the F.I.T.D is a private undertaking which uses private resources and is not subject to the control of any public authority, as indeed the General Court recently found in the [joined cases *Italy and Others v Commission* (T-98/16, T-196/16 and T-198/16, EU:T:2019:167)]. It would have been, therefore, a perfectly lawful rescue according to market rules. The infringement is also shown to be serious and manifest in the light of the clear regulatory framework in that area, the established case-law of the European Courts and the lack of discretion on the part of the European Commission.

3. Third plea in law, concerning the existence of damage.

— In this regard the applicants claim that the conduct ascribed to the European Commission was the effective and exclusive cause of the damage which they have suffered. From the procedural documents, in fact, it is clear that: (i) the Italian Authorities pursued every possible alternative solution to the resolution of Banca delle Marche and the European Commission's opposition made each of those solutions impossible; and (ii) those alternative solutions would have hugely limited the detrimental effects on shareholders and bondholders.

4. Fourth plea in law, concerning the assessment of the damage.

— In this regard the applicants claim that the damage should be estimated taking into consideration the residual value that would have been retained by the subordinated bonds and shares which the applicants held in Banca [delle] Marche if, instead of the resolution taking place, the F.I.T.D had completed the recapitalisation of that bank.

**Action brought on 25 September 2019 — Sánchez Romero Carvajal Jabugo v EUIPO — Embutidos Monells
(5Ms MMMMM)**

(Case T-639/19)

(2019/C 383/81)

Language in which the application was lodged: Spanish

Parties

Applicant: Sánchez Romero Carvajal Jabugo, SAU (El Puerto de Santa María, Spain) (represented by: J.M. Iglesias Monravá, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Embutidos Monells, SA (San Miguel de Balenya, 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 registration of European Union figurative mark '5Ms MMMMM' — Application for registration No 16 338 998

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 24 July 2019 in Case R 1728/2018-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- accordingly, refuse registration of European Union figurative mark No 16 338 998'5Ms MMMMM' in Class 29;
- order any party opposing the present action to pay the costs.

Pleas in law

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

Action brought on 24 September 2019 — FD v Joint Undertaking Fusion for Energy

(Case T-641/19)

(2019/C 383/82)

Language of the case: French

Parties

Applicant: FD (represented by M. Casado García-Hirschfeld, lawyer)

Defendant: European Joint Undertaking for ITER and the Development of Fusion Energy (Joint Undertaking Fusion for Energy)

Form of order sought

The applicant claims that the General Court should:

- declare the present application admissible and well founded;
- and accordingly:
- annul the decision of 3 December 2018 which was confirmed by the rejection decision of 14 June 2019;
 - order the payment of compensation in respect of the material damage suffered, which amounts to EUR 75 500, together with compensation in respect of the non-material damage, estimated in the amount of EUR 30 000;
 - order the defendant to bear the entirety of the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging error of assessment, misuse of powers and acts of harassment committed against him. The applicant criticises, inter alia, the justification for the non-renewal of his contract, which was based on the elimination of his post following the reorganisation of the department. According to the applicant, that statement of reasons is vitiated by an error in so far as the reorganisation plans did not make provision for the elimination of a post corresponding to the characteristics of that occupied by the applicant. Moreover, he takes the view that he was the victim of psychological harassment and that the consequences of that harassment served to substantiate the decision not to renew his contract.