

2. Orders Marc Folschette, Tetyana Grygorenko and Professional Business Solutions SA to pay the costs.

<sup>(1)</sup> OJ C 61, 24.2.2020.

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**Judgment of the General Court of 20 January 2021 — Oatly v EUIPO (IT'S LIKE MILK BUT MADE FOR HUMANS)**

**(Case T-253/20) <sup>(1)</sup>**

**(EU trade mark — Application for the EU word mark IT'S LIKE MILK BUT MADE FOR HUMANS — Absolute ground for refusal — Distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001)**

(2021/C 72/37)

Language of the case: English

**Parties**

*Applicant:* Oatly AB (Malmö, Sweden) (represented by: M. Johansson, lawyer)

*Defendant:* European Union Intellectual Property Office (represented by: J. Ivanauskas and V. Ruzek, acting as Agents)

**Re:**

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 7 February 2020 (Case R 2446/2019-5), regarding an application for registration of the word sign IT'S LIKE MILK BUT MADE FOR HUMANS as an EU trade mark.

**Operative part of the judgment**

The Court:

1. Annuls the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 7 February 2020 (Case R 2446/2019-5), regarding an application for registration of the word sign IT'S LIKE MILK BUT MADE FOR HUMANS as an EU trade mark;
2. Orders EUIPO to bear its own costs and to pay those incurred by Oatly AB.

<sup>(1)</sup> OJ C 215, 29.6.2020.

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**Judgment of the General Court of 20 January 2021 — Crevier v EUIPO (air freshener)**

**(Case T-276/20) <sup>(1)</sup>**

**(Community design — Application for a Community design representing an air freshener — Non-compliance with a time limit vis-à-vis EUIPO — Application for restitutio in integrum — Article 67 (1) of Regulation (EC) No 6/2002 — Duty of care)**

(2021/C 72/38)

Language of the case: English

**Parties**

*Applicant:* Jeffrey Scott Crevier (Fort Lauderdale, Florida, United States) (represented by: M. Kime, Barrister)

*Defendant:* European Union Intellectual Property Office (represented by: R. Cottrell, A. Folliard-Monguiral and V. Ruzek, acting as Agents)

**Re:**

Action brought against the decision of the Third Board of Appeal of EUIPO of 2 March 2020 (Case R 2396/2019-3) relating to an application for *restitutio in integrum*.

**Operative part of the judgment**

The Court:

1. Dismisses the action;
2. Orders Mr Jeffrey Scott Crevier to pay the costs.

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(<sup>1</sup>) OJ C 247, 27.7.2020.

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**Action brought on 15 December 2020 — Grupa Azoty and Others v Commission**

(Case T-726/20)

(2021/C 72/39)

*Language of the case: English*

**Parties**

*Applicants:* Grupa Azoty S.A. (Tarnów, Poland), Azomureş SA (Tîrgu Mureş, Romania), Lipasmata Kavalas LTD Ypokatastima Allodapis (P. Fálro, Greece) (represented by: D. Haverbeke, L. Ruessmann and P. Sellar, lawyers)

*Defendant:* European Commission

**Form of order sought**

The applicants claim that the Court should:

- annul Annex I of the Communication from the Commission — Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021 (<sup>1</sup>), to the extent that it wrongfully excludes the fertilisers sector;
- order, pursuant to Article 264 TFEU, that the effects of Annex I to the contested act be continued until such time as the defendant takes the measures necessary to comply with the Court's decision pursuant to Article 266 TFEU;
- order the defendant to pay the costs of these proceedings.

**Pleas in law and main arguments**

In support of the action, the applicants rely on seven pleas in law.

1. First plea in law, alleging that Annex I to the contested act is vitiated by a lack of competence.
  - In accordance with Articles 5(1) and 5(2) TEU, the EU shall act only within the limits of the competence conferred upon it by the Member States. Competences not conferred upon the EU by the Treaties remain with the Member States;
  - It is not the defendant but the Member States that are competent, under Article 10a(6) of Directive 2003/87/EC, as amended (<sup>2</sup>), to identify the sectors and subsectors and adopt a list as in Annex I to the contested act.
2. Second plea in law, alleging that Annex I to the contested act is vitiated by an infringement of an essential procedural requirement (statement of reasons).
  - The statement of reasons of the contested act required by Article 296 TFEU fails to disclose clearly and unequivocally the reasoning followed by the defendant in calculating the indirect emission intensity figure for the applicants' sector, which is the determinative factor of inclusion or exclusion from the Annex I to the contested act;