

2. Orders Eggy Food GmbH & Co. KG to pay the costs.

⁽¹⁾ OJ C 297, 7.9.2020.

Judgment of the General Court of 30 June 2021 — Makk v EUIPO — Ubati Luxury Cosmetics (PANTA RHEI)

(Case T-501/20) ⁽¹⁾

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark PANTA RHEI — Earlier EU word mark PANTA RHEI — Relative ground for refusal — Likelihood of confusion — Similarity of the goods — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2021/C 329/38)

Language of the case: English

Parties

Applicant: Stefan Makk (Graz, Austria) (represented by: I. Hödl, lawyer)

Defendant: European Union Intellectual Property Office (represented by: V. Ruzek and L. Lapinskaite, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Ubati Luxury Cosmetics, SL (Alcobendas, Spain) (represented by: C. Vendrell, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 9 June 2020 (Case R 2337/2019-4), relating to opposition proceedings between Ubati Luxury Cosmetics and Mr Makk.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Mr Stefan Makk to pay the costs.

⁽¹⁾ OJ C 320, 28.9.2020.

Judgment of the General Court of 30 June 2021 — Wolf Oil v EUIPO — Rolf Lubricants (ROLF)

(Case T-531/20) ⁽¹⁾

(EU trade mark — Opposition proceedings — International registration designating the European Union — Figurative mark ROLF — Earlier international mark Wolf — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Obligation to state reasons — Right to be heard)

(2021/C 329/39)

Language of the case: English

Parties

Applicant: Wolf Oil Corporation NV (Hemiksem, Belgium) (represented by: T. Heremans and L. Depypere, lawyers)

Defendant: European Union Intellectual Property Office (represented by: K. Kompari and V. Ruzek, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Rolf Lubricants GmbH (Leverkusen, Germany) (represented by: D. Terheggen and S. Sullivan, lawyers)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 4 June 2020 (Case R 1958/2019-5), relating to opposition proceedings between Wolf Oil Corporation and Rolf Lubricants.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Wolf Oil Corporation NV to pay the costs.

(¹) OJ C 339, 12.10.2020.

Action brought on 1 June 2021 — SV v EIB

(Case T-311/21)

(2021/C 329/40)

Language of the case: English

Parties

Applicant: SV (represented by: L. Levi and M. Vandenbussche, lawyers)

Defendant: European Investment Bank

Form of order sought

The applicant claims that the Court should:

- annul the applicant's 2019 appraisal report;
- annul the General Counsel's decision of 26 June 2020 confirming the 2019 appraisal report in the context of the Staff-DG review as well as DG Personnel's decision of 22 February 2021 rejecting the applicant's request for administrative review;
- compensate the applicant for his material prejudice as described in this application;
- compensate the applicant for his non-material prejudice assessed *ex aequo et bono* at EUR 5 000;
- order the defendant to pay all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging the absence of full review of the appraisal — Violation of the EIB Implementing Rules.
 - The General Counsel, the applicant argues, did not perform a full review of the performance appraisal, as required by the EIB Implementing Rules, but limited the assessment to a marginal review, limited to finding whether the report was tainted by a manifest error of assessment. In the same vein, it is argued that DG Personnel also failed to perform a full review of the performance appraisal, contrary to the requirements of the EIB Implementing Rules.
2. Second plea in law, alleging an illegal assessment of the absolute performance rating of the applicant's objectives and competencies — Violation of the Performance Management (PM) guidelines.
 - The applicant's manager's absolute evaluation of objectives and competencies violates the PM guidelines insofar as it is based on a relative assessment across the Division, the Department and the Directorate instead of an assessment of the applicant's absolute achievements and demonstration of competencies. Such an erroneous review was then endorsed and applied by the General Counsel and DG Personnel, making their decision illegal as well.