

**Action brought on 26 June 2020 — Allergan Holdings France v EUIPO — Dermavita Company (JUVEDERM)**

**(Case T-397/20)**

(2020/C 279/63)

*Language of the case: English*

**Parties**

*Applicant:* Allergan Holdings France SAS (Courbevoie, France) (represented by: J. Day, Solicitor and T. de Haan, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Dermavita Company SARL (Beirut, Lebanon)

**Details of the proceedings before EUIPO**

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

*Trade mark at issue:* European Union word mark JUVEDERM — European Union trade mark No 2 196 822

*Procedure before EUIPO:* Cancellation proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 14 April 2020 in Case R 877/2019-4

**Form of order sought**

The applicant claims that the Court should:

- annul points 3 and 4 of the operative part of the decision insofar as it dismissed the applicant appeal against the revocation of its EU trade mark registration No 2 196 822 JUVEDERM for ‘dermal implants’, and ordered the applicant to bear its own costs;
- order EUIPO and Dermavita Company Ltd to bear their own costs and pay those of the applicant, including those incurred by the applicant before the Fourth Board of Appeal.

**Pleas in law**

- Infringement of Article 58(1)(a) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 64(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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**Action brought on 19 June 2020 — Wuxi Suntech Power v Commission**

**(Case T-403/20)**

(2020/C 279/64)

*Language of the case: English*

**Parties**

*Applicant:* Wuxi Suntech Power Co. Ltd (Wuxi, China) (represented by: Y. Melin and B. Vigneron, lawyers)

*Defendant:* European Commission

### Form of order sought

The applicant claims that the Court should:

- annul Commission Implementing Regulation (EU) 2020/444 of 25 March 2020 invalidating invoices issued by Wuxi Suntech Power Co. Ltd in breach of the undertaking repealed by Implementing Regulation (EU) 2017/1570;
- order the Commission, and any interveners who may be allowed to support the Commission in the course of the proceedings, to bear 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 a manifest error of assessment in assessing the facts of the case, and breached Article 8 of Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union, as well as Article 13 of Regulation (EU) 2016/1037 of the European Parliament and of the Council of 8 June 2016 on protection against subsidised imports from countries not members of the European Union, and in particular paragraphs 9 thereof, when it considered that the applicant breached the terms of the undertaking agreed between the Commission and the CCCME on behalf of *inter alia* the applicant. The applicant acted in compliance with the undertaking by reporting invoices corresponding to the resales made by Suntech Europe France, Suntech Power Italy Co., Srl and Suntech Power Deutschland GmbH to the first independent customer in the EU until it ceased to be related to these companies. The applicant acted in compliance with the undertaking as well by notifying the Commission in a timely manner about the change to its shareholding following a restructuring that ended the affiliation of the applicant to the aforementioned companies.
2. Second plea in law, alleging that even if the applicant breached the undertaking, *quod non*, the Commission acted illegally by declaring the relevant invoices invalid and collecting duties on them because the powers it relies upon to do so have either expired and/or been revoked. This is allegedly because implementing Regulations (EU) No 1238/2013 and No 1239/2013 expired on 7 December 2015. Similarly, Implementing Regulations (EU) 2017/367 and No 2017/366 expired on 3 September 2018.
3. Third plea in law, based on a plea of illegality of Article 3(2) of Council Implementing Regulation (EU) No 1238/2013 of 2 December 2013, imposing a definitive anti-dumping duty and collecting definitively the provisional duty imposed on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China, of Article 2(2) of Commission Implementing Regulation (EU) 2017/367 of 1 March 2017 imposing a definitive anti-dumping duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China following an expiry review pursuant to Article 11(2) of Regulation (EU) 2016/1036 of the European Parliament and of the Council and terminating the partial interim review investigation pursuant to Article 11(3) of Regulation (EU) 2016/1036, of Article 2(2) of Council Implementing Regulation (EU) No 1239/2013 of 2 December 2013 imposing a definitive countervailing duty on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China, and of Article 2(2) of Commission Implementing Regulation (EU) 2017/366 of 1 March 2017 imposing definitive countervailing duties on imports of crystalline silicon photovoltaic modules and key components (i.e. cells) originating in or consigned from the People's Republic of China following an expiry review pursuant to Article 18(2) of Regulation (EU) 2016/1037 of the European Parliament and of the Council and terminating the partial interim review investigation pursuant to Article 19(3) of Regulation (EU) 2016/1037, which give to the Commission the power to declare undertaking invoices invalid and order customs to collect duties on past imports released for free circulation.