

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: S. Tous, SL (Manresa, Spain)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union figurative mark (Representation of the outline of a bear) –European Union trade mark No 8 127 128

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 6 July 2021 in Case R 222/2020-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision as a whole and alter the decision by invalidating the contested trademark no. 8 127 128;
- alternatively, annul the contested decision as a whole and refer of the case back to the Board of Appeal;
- order EUIPO and S.TOUS, S.L. to pay the costs of the appeal proceedings and those of the proceedings before the General Court.

Pleas in law

- Infringement of Article 7(1)(b) of Council Regulation (EC) No 207/2009;
- Infringement of Article 7(1)(e)(i) and (iii) of Council Regulation (EC) No 207/2009;
- Infringement of Article 7(1)(d) of Council Regulation (EC) No 207/2009;
- Infringement of Articles 94(1) and 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council by lack of reasons on which the assumptions about the shape of the contested trade mark are based;
- Infringement of Articles 20, 41(1) and 2(a) and (c) of the Charter of Fundamental Rights of the European Union, in particular the right to be heard, the obligation of the administration to give reasons for its decision, the principles of good administration, legal certainty and equal treatment.

Action brought on 17 September 2021 — Société Elmar Wolf v EUIPO — Fuxtec (Representation of a fox's head)

(Case T-596/21)

(2021/C 462/67)

Language in which the application was lodged: French

Parties

Applicant: Société Elmar Wolf (Wissembourg, France) (represented by: N. Boespflug, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Fuxtec GmbH (Herrenberg, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: International registration designating the European Union in respect of a figurative mark (Representation of a fox's head) — International registration designating the European Union No 1 339 239

Proceedings before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 5 July 2021 in Case R 2834/2019-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision in so far as it states that the mark applied for is similar to the earlier mark;
- order EUIPO to pay the costs;
- order the company Fuxtec GmbH to pay the costs occasioned by its intervention, if such intervention has taken place.

Plea in law

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

Action brought on 18 September 2021 — Basaglia v Commission

(Case T-597/21)

(2021/C 462/68)

Language of the case: Italian

Parties

Applicant: Giorgio Basaglia (Milan, Italy) (represented by: G. Balossi, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the General Court should:

- annul European Commission Decision of 27 July 2021 C(2021) 5741 final pursuant to Article 4 of the Implementing Rules to Regulation (EC) No 1049/2001 ⁽¹⁾, the Italian version of which was sent on 23 August 2021.

Pleas in law and main arguments

In support of the action, the applicant relies on a single plea in law.

1. Single plea in law, alleging that the scope of the initial application had been unilaterally restricted.

- The applicant claims, in that regard, that (i) by the judgment of 23 September 2020 delivered in *Basaglia v Commission* (T-727/19, not published, EU:T:2020:446), the General Court had directed that the decision adopted by the European Commission unilaterally restricting the request for access to documents submitted by the applicant's legal representative should be annulled; (ii) in particular, the European Commission's conduct, whereby it had unilaterally limited that representative's right to access the documents requested, had been declared to be unlawful; and (iii) the Commission's new decision, adopted following the annulment of the previous decision, did not comply with the judgment of the General Court of 23 September 2020 and constituted another infringement of the applicant's right to access.

⁽¹⁾ Commission Decision of 5 December 2001 amending its rules of procedure (OJ 2001 L 345, p. 94).