Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 30 July 2021 in Case R 2508/2019-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— declare the European Union trade mark registered on 20 May 2011 under No 9 329 848 valid;

— order EUIPO and the intervener to pay the costs in accordance with Article 134(1) of the Rules of Procedure of the General Court.

Pleas in law

— Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 59(3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of Article 61 of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 28 October 2021 — aTmos Industrielle Lüftungstechnik v EUIPO — aTmos Industrielle Lüftungstechnik (aTmos)

(Case T-694/21)

(2022/C 2/61)

Language in which the application was lodged: German

Parties

Applicant: aTmos Industrielle Lüftungstechnik GmbH (Düsseldorf, Germany) (represented by: F. Stangl and S. Pilgram, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: aTmos Industrielle Lüftungstechnik GmbH (Riedstadt, Germany)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: European Union word mark 'aTmos' — European Union trade mark No 12 285 649

Procedure before EUIPO: Proceedings for a declaration of invalidity

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 2 September 2021 in Case R 1844/2020-5

Form of order sought

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs, including the costs incurred in the appeal proceedings.

Pleas in law

— Infringement of Article 60(1)(c) in conjunction with Article 8(4) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;

— Infringement of the second sentence of Article 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 28 October 2021 — Alauzun and Others v Commission

(Case T-695/21)

(2022/C 2/62)

Language of the case: French

Parties

Applicants: Virginie Alauzun (Saint Cannat, France) and 774 other applicants (represented by: F. Di Vizio, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

— declare that the European Commission (EC) unlawfully failed to include carcinogenicity and genotoxicity testing in the preclinical phase for the mRNA-technology vaccines;

— order the European Commission to include carcinogenicity and genotoxicity testing in the preclinical phase for mRNA-technology vaccines not yet authorised under the EMA procedure;

— order the European Commission to include carcinogenicity and genotoxicity testing in the pharmacovigilance phase for mRNA-technology vaccines already authorised under the EMA procedure;

— request the Commission to disclose the following information:

  — the clear legislative basis as to why the testing at issue was not included in the preclinical and pharmacovigilance testing phases;

  — the regulation setting out the mandatory checks required for the authorisation of mRNA-technology vaccines.

— order the European Commission to pay all the costs of the applicants.

Pleas in law and main arguments

In support of the action, the applicants allege an infringement of EU law and a failure to act on the part of the Commission. The applicants submit in that regard that the Commission did not comply with its obligation arising under Article 168 TFEU to guarantee a 'high level of human health protection' by granting a conditional marketing authorisation to mRNA-technology vaccines in the absence of carcinogenicity and genotoxicity studies.
