

Order of the General Court of 8 November 2022 — Growth Finance Plus v EUIPO (catlover)(Case T-232/22) ⁽¹⁾***(EU trade mark — Application for the EU word mark catlover — Absolute ground for refusal — No distinctive character — Article 7(1)(b) of Regulation (EU) 2017/1001 — Action manifestly lacking any foundation in law)***

(2023/C 24/56)

Language of the case: German

Parties**Applicant:** Growth Finance Plus AG (Gommiswald, Switzerland) (represented by: H. Twelmeier, lawyer)**Defendant:** European Union Intellectual Property Office (represented by: A. Ringelhann and T. Klee, acting as Agents)**Re:**

By its action under Article 263 TFEU, the applicant seeks annulment of the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 7 February 2022 (Case R 717/2020-5).

Operative part of the order

1. The action is dismissed.
2. Growth Finance Plus AG shall pay the costs.

⁽¹⁾ OJ C 237, 2.6.2022.

Order of the President of the General Court of 11 November 2022 — Belaruskali v Council

(Case T-528/22 R)

(Interim relief — Common foreign and security policy — Restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine — Application for suspension of operation of a measure — No urgency)

(2023/C 24/57)

Language of the case: English

Parties**Applicant:** Belaruskali AAT (Soligorsk, Belarus) (represented by: V. Ostrovskis, lawyer)**Defendant:** Council of the European Union (represented by: J. Rurarz, B. Driessen and A. Boggio-Tomasaz, acting as Agents)**Re:**

By its application under Articles 278 and 279 TFEU, the applicant seeks suspension of the operation of Council Implementing Decision (CFSP) 2022/881 of 3 June 2022 implementing Decision 2012/642/CFSP concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (OJ 2022 L 153, p. 77), in so far as that decision concerns the applicant, and of Council Implementing Regulation (EU) 2022/876 of 3 June 2022 implementing Article 8a(1) of Regulation (EC) No 765/2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine (OJ 2022 L 153, p. 1), in so far as that regulation concerns the applicant.

Operative part of the order

1. The application for interim measures is dismissed.
2. The costs are reserved.

Action brought on 7 October 2022 — SD v EMA**(Case T-623/22)**

(2023/C 24/58)

*Language of the case: German***Parties***Applicant:* SD (represented by: A. Steindl, lawyer)*Defendant:* European Medicines Agency (EMA)**Form of order sought**

The applicant claims that the Court should:

- Annul the decision of the EMA of 21 July 2022 (EMA/254928/2022) by which the applicant's appeal of 4 May 2022 against the decision of the EMA of 8 April 2022 (EMA/191392/2022) was dismissed;
- If the applicant is successful, order the EMA to pay the costs and expenses incurred or yet to be incurred by the applicant and, if the applicant is unsuccessful, order the EMA to bear its own costs on the equitable grounds under Article 135(1) of the Rules of Procedure of the General Court.

Pleas in law and main arguments

The action is directed against the decision of the EMA of 21 July 2022 (EMA/254928/2022), by which the applicant was denied full access to three documents. It is alleged that those documents concern 'specific obligation No. 1(a)' ('SO1a') as part of the obligations relating to Comirnaty specifically provided for in Commission Implementing Decision C(2020) 9598 final of 21 December 2020. ⁽¹⁾ In support of the action, the applicant relies on the following pleas in law.

1. First plea in law, alleging that the contested decision infringes, either entirely or at least in part, the first indent of Article 4(2) of Regulation No 1049/2001 ⁽²⁾ as regards the protection of commercial interests

The redactions infringe additional, parallel legal provisions of the EMA, which were to be taken into consideration for the purposes of interpretation and were disregarded in the contested decision. Further, the decision contains an error in law in so far as it sets out from the premiss that the documents contained commercially confidential information, and there is no comprehensible evidence that harm would be caused to Biontech through the publication of the SO1a documents, which was required to publish them as a condition of authorisation. Accordingly, the EMA is also required, as part of its official function, to grant the applicant complete access to the data without making an error in law.

2. Second plea in law, alleging that the contested decision infringes, either entirely or at least in part, the last sentence of Article 4(2) of Regulation No 1049/2001 as regards the existence of an overriding public interest in disclosure