

GENERAL COURT

Action brought on 30 May 2017 — The GB Foods v EUIPO — Yatecomeré (YATEKOMO)

(Case T-336/17)

(2017/C 318/17)

Language in which the application was lodged: Spanish

Parties

Applicant: The GB foods, SA (L'Hospitalet de Llobregat, Spain) (represented by: M. Buganza González and E. Torner Lasalle, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Yatecomeré, SL (Ribadumia, Spain)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark 'YATEKOMO' — EU trade mark No 11 703 568

Procedure before EUIPO: Invalidity proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 13 March 2017 in Case R 1506/2016-5

Form of order sought

The applicant claims that the Court should:

- declare admissible the present application challenging the decision of the Board of Appeal of EUIPO of 13 March 2017 (Case R 1506/2016-5), and grant the application by annulling the Board of Appeal's decision and by restoring and confirming the validity of trade mark No 11 703 568 'YATEKOMO' for all of the goods in Classes 29 and 30 in respect of which the mark was applied for initially;
- declare that the mark 'YATEKOMO' is well known;
- order EUIPO to make available to the Court all the documentation which was provided for that registration and which comprised the file for the annulment proceedings before EUIPO in respect of the mark 'YATEKOMO' in order that all of the documents produced in the proceedings may be analysed;
- order EUIPO to pay the costs pursuant to Article 134 of the Rules of Procedure of the General Court.

Pleas in law

- The trade mark 'YATEKOMO' does not infringe Article 8 of Regulation No 207/2009. The EU word mark does not conflict with the earlier Spanish composite mark 'ya te comeré el vacío que te llena'.
- The reputation acquired by mark No 11 703 568 'YATEKOMO'