

Action brought on 4 July 2017 — Eduard Meier v EUIPO — Calzaturificio Elisabet (Safari Club)**(Case T-418/17)**

(2017/C 277/79)

*Language in which the application was lodged: English***Parties***Applicant:* Eduard Meier GmbH (Munich, Germany) (represented by: S. Schicker and M. Knitter, lawyers)*Defendant:* European Union Intellectual Property Office (EUIPO)*Other party to the proceedings before the Board of Appeal:* Calzaturificio Elisabet Srl (Monte Urano, Italy)**Details of the proceedings before EUIPO***Applicant of the trade mark at issue:* Applicant*Trade mark at issue:* EU word mark 'Safari Club' — Application for registration No 13 186 036*Procedure before EUIPO:* Opposition proceedings*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 2 May 2017 in Case R 1158/2016-4**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to bear the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 4 July 2017 — Mendes v EUIPO — Actial Farmaceutica (VSL#3)**(Case T-419/17)**

(2017/C 277/80)

*Language in which the application was lodged: Italian***Parties***Applicant:* Mendes SA (Lugano, Switzerland) (represented by: G. Carpineti, lawyer)*Defendant:* European Union Intellectual Property Office (EUIPO)*Other party to the proceedings before the Board of Appeal:* Actial Farmaceutica Srl (Rome, Italy)**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 word mark 'VSL#3' — European Union trade mark No 1 437 789*Procedure before EUIPO:* Revocation proceedings*Contested decision:* Decision of the Second Board of Appeal of EUIPO of 3 May 2017 in Case R 1306/2016-2

Form of order sought

The applicant claims that the Court should:

- primarily, annul the contested decision of the Board of Appeal of EUIPO in accordance with and for the purposes of Article 51(1)(b) EUTMR;
- in the alternative, annul the contested decision of the Board of Appeal of EUIPO in accordance with and for the purposes of Article 51(1)(c) EUTMR;
- in any event, order that the applicant should be reimbursed in full for the costs of the proceedings, or at least that each party should bear its own costs in full.

Plea in law

- Infringement of Article 51(1)(b) and (c) of Regulation No 207/2009.

Action brought on 10 July 2017 — Portigon v SRB

(Case T-420/17)

(2017/C 277/81)

Language of the case: German

Parties

Applicant: Portigon AG (Düsseldorf, Germany) (represented by: D. Bliesener and V. Jungkind, lawyers)

Defendant: Single Resolution Board (SRB)

Form of order sought

The applicant claims that the Court should:

- annul the defendant's decision of 11 April 2017 concerning the calculation of the ex-ante contributions to the Single Resolution Fund for 2017 (SRB/ES/SRF/2017/05) in so far as the decision concerns the applicant; and
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on seven pleas in law:

1. First plea in law, alleging infringement of the first to third subparagraphs of Article 70(2) of Regulation (EU) No 806/2014⁽¹⁾ in conjunction with Article 8(1)(b) of Implementing Regulation (EU) 2015/81⁽²⁾ in conjunction with Article 103(7) of Directive 2014/59/EU⁽³⁾
 - The applicant claims that the defendant was wrong to make the applicant subject to an obligation to pay a contribution to the Fund, since a mandatory contribution for institutions under resolution is not provided for under Regulation (EU) No 806/2014 and Directive 2014/59/EU. Article 114 TFEU prohibits levying contributions on institutions, such as the applicant, which are resolving their remaining business operations. The requirements for the adoption of measures under Article 114(1) TFEU are, in relation to the applicant, not satisfied. Furthermore, the levying of contributions is contrary to Article 114(2) TFEU.
 - The applicant claims that the defendant was wrong to make the applicant subject to an obligation to pay a contribution to the Fund; since the institution has no risk exposure, there is no prospect of the institution entering into resolution in accordance with the rules of Regulation (EU) No 806/2014 and the institution is of no importance to the stability of the financial system. Such an obligation would infringe Article 103(7)(a), (d) and (g) of Directive 2014/59/EU.
 - The applicant has not engaged in any new business since the beginning of 2012 and is under resolution as a result of an aid decision by the European Commission. It holds the majority of its remaining liabilities on trust for another entity, which has taken over the opportunities and risks from that business.