

Action brought on 21 July 2017 — Fifth Avenue Entertainment v EUIPO — Commodore Entertainment Corporation (THE COMMODORES)

(Case T-459/17)

(2017/C 309/47)

Language in which the application was lodged: English

Parties

Applicant: Fifth Avenue Entertainment LLC (Orlando, Florida, United States) (represented by: B. Brandreth, barrister and D. Cañadas Arcas, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Commodore Entertainment Corporation (Saint Paul, Minnesota, United States)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant

Trade mark at issue: EU word mark ‘THE COMMODORES’ — Application for registration No 13 370 077

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 22 May 2017 in Case R 851/2016-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- payment of the appellant’s cost.

Pleas in law

- Infringement of Article 8(4) of No 207/2009;
- Infringement of Article 8(2)(c) of No 207/2009.

Action brought on 26 July 2017 — TP v Commission

(Case T-464/17)

(2017/C 309/48)

Language of the case: Italian

Parties

Applicant: TP (represented by: W. Limuti, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul and withdraw the contested decision and annul all consequent acts stemming therefrom, including implied acts and acts not known to the applicant, cancelling all consequent effects adversely affecting the applicant and impacting on his legal and financial interests, and ensure that the matter will be treated in such a way as to enable the applicant, after having obtained the necessary information, to set out his views, so that the new decision may be taken in compliance with the principles of trust, legality and transparency;

- acknowledge, in upholding the present action, the damage suffered by the official in the meantime, in particular not only the material damage but also the non-material mental and physical damage as set out in the medical and legal expert report on the events in question, which acknowledges moderately serious existential damage and records that the applicant has trouble adjusting coupled with anxiety and chronic depression, caused by trauma suffered in the workplace and quantifiable at 20 %.

Pleas in law and main arguments

The present action is brought against the decision rejecting the complaint lodged by the applicant contesting the deduction made by the Office for the Administration and Payment of Individual Entitlements (the PMO) in respect of his salary following the judgment of the Tribunale di Treviso (District Court, Treviso) finalising the divorce between the applicant and his ex-wife.

In support of his action, the applicant relies on the following pleas in law.

1. Infringement of the guaranteed right of an official to be heard and to set out his views.
2. Infringement of the applicant's right to obtain information relevant to his defence.
3. Infringement of the applicant's right to obtain an indication of the reasons why he could not receive the relevant information.
4. Infringement and misapplication of Article 7(1) of Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents ⁽¹⁾ and, consequently, infringement of the applicant's right to the information concerning the pending procedure against him and failure to fulfil the obligation to provide a statement of reasons for the decisions taken.
5. Infringement of Article 24 of the Staff Regulations and, consequently, infringement of the applicant's right to be defended and assisted by the institution against attacks by other persons.
6. Existence of mental and physical damage to the applicant's person and a corresponding causal link between the conduct of the administration and the damage suffered.

⁽¹⁾ OJ 2001 L 145, p. 43.

Action brought on 26 July 2017 — VKR Holding v EUIPO (VELUX)

(Case T-465/17)

(2017/C 309/49)

Language of the case: English

Parties

Applicant: VKR Holding A/S (Søborg, Denmark) (represented by: J. Heebøll, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: EU word mark 'VELUX' — Recordal application No T 2 299 611

Contested decision: Decision of the Second Board of Appeal of EUIPO of 23 May 2017 in Case R 1927/2016-2

Form of order sought

The applicant claims that the Court should:

- overturn the decision of the Board to dismiss the appeal and thereby allow recordal request no. T 2 299 611 relating to EUTM 000651869 (VELUX),