

Judgment of the General Court of 21 September 2017 — InvoiceAuction B2B v EUIPO (INVOICE AUCTION)

(Case T-789/16) ⁽¹⁾

(EU trade mark — Application for the figurative EU trade mark INVOICE AUCTION — Absolute ground for refusal — Descriptive character — Article 7(1)(c) of Regulation (EC) No 207/2009)

(2017/C 374/52)

Language of the case: German

Parties

Applicant: InvoiceAuction B2B GmbH (Frankfurt am Main, Germany) (represented by: C. Jonas, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Hanf, Agent)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 3 August 2016 (Case R 2201/2015-1), relating to the application for registration of the figurative sign INVOICE AUCTION as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders InvoiceAuction B2B GmbH to pay the costs.*

⁽¹⁾ OJ C 14, 16.1.2017.

Action brought on 4 August 2017 — Del Valle Ruiz and Others v Commission and SRB

(Case T-510/17)

(2017/C 374/53)

Language of the case: English

Parties

Applicants: Antonio Del Valle Ruiz (Mexico City, Mexico) and 41 others (represented by: P. Saini, QC, J. Pobjoy, Barrister, and R. Boynton, Solicitor)

Defendants: European Commission and Single Resolution Board (SRB)

Form of order sought

The applicants claim that the Court should:

- annul, first, the decision of the Single Resolution Board adopted in its Executive Session of 7 June 2017 concerning the adoption of a resolution scheme in respect of Banco Popular Español, S.A., and, second, Commission Decision (EU) 2017/1246 ⁽¹⁾, and, further, declare illegal Articles 18 and 22 of Regulation (EU) No 806/2014 ⁽²⁾;
- order the defendants to bear the costs.

Pleas in law and main arguments

In support of the action, the applicants rely on nine pleas in law.

1. First plea in law, alleging that Article 18 of the SRM Regulation is unlawful, in that the process stipulated therein fails to provide stakeholders with an opportunity to be heard and allows for no judicial oversight, in violation of (a) Articles 41, 47 and 48 of the Charter of Fundamental Rights of the EU (EU Charter) and (b) the principle of proportionality.
2. Second plea in law, alleging that, irrespective of whether Article 18 of the SRM Regulation is unlawful, the contested SRB Decision and the contested Commission Decision infringed Articles 41, 47 and 48 of the EU Charter.
3. Third plea in law, alleging that the SRB and Commission infringed, without justification or proportion, the applicants' right to property.
4. Fourth plea in law, alleging that the SRB and Commission infringed Article 20 of the SRM Regulation by failing to undertake a proper and independent valuation prior to taking the contested SRM Decision and the contested Commission Decision.
5. Fifth plea in law, alleging that the SRB and Commission infringed Article 18(1) of the SRM Regulation in determining that the conditions precedent set out under Articles 18(1)(a) and (b) were satisfied.
6. Sixth plea in law, alleging that the SRB and Commission infringed Article 21(1) of the SRM Regulation in determining that the conditions for the exercise of the power to write down or convert relevant capital instruments were satisfied.
7. Seventh plea in law, alleging that the SRB and Commission breached an essential procedural requirement in failing to provide an adequate statement of reasons for the contested SRB Decision and the contested Commission Decision.
8. Eighth plea in law, alleging that in selecting the sale of business tool, the SRB and Commission have failed to comply with (a) the principle of proportionality; and (b) the legitimate expectations of the applicants, by departing from the resolution plan without justification.
9. Ninth plea in law, alleging that Articles 18 and 22 of the SRM Regulation breached the principles relating to the delegation of powers.

⁽¹⁾ Commission Decision (EU) 2017/1246 of 7 June 2017 endorsing the resolution scheme for Banco Popular Español, S.A. (notified under document C(2017) 4038) (OJ 2017 L 178, p. 15).

⁽²⁾ Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ 2014 L 225, p. 1)

Action brought on 3 August 2017 — Garriga Sadurní and Martí Fonts v SRB

(Case T-514/17)

(2017/C 374/54)

Language of the case: Spanish

Parties

Applicants: Antonia Elisenda Garriga Sadurní (Barcelona, Spain) and Josep María Martí Fonts (Barcelona) (represented by: E. Silva Pacheco, lawyer)

Defendant: Single Resolution Board

Form of order sought

The applicants claim that the General Court should:

- Annul the decision of the Single Resolution Board of 7 June 2017, with effect *ex tunc*, thereby rendering it invalid and devoid of effects;