

**Action brought on 9 October 2017 — Ntolas v EUIPO — General Nutrition Investment (GN Laboratories)**

**(Case T-712/17)**

(2017/C 437/47)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Christos Ntolas (Wuppertal, Germany) (represented by: C. Renger, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

*Other party to the proceedings before the Board of Appeal:* General Nutrition Investment Co. (Delaware, Arizona, United States)

**Details of the proceedings before EUIPO**

*Applicant of the trade mark at issue:* Applicant

*Trade mark at issue:* EU word mark 'GN Laboratories' — Application for registration No 11 223 559

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fifth Board of Appeal of EUIPO of 18 July 2017 in Case R 2358/2016-5

**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- reject the opposition brought against the application for the Community Trademark No 011223559;
- order EUIPO to pay the costs.

**Plea in law**

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

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**Action brought on 14 October 2017 — Motex v Commission**

**(Case T-713/17)**

(2017/C 437/48)

*Language of the case: Hungarian*

**Parties**

*Applicant:* MOTEX Ipari és Szolgáltató Rehabilitációs Kft. (Esztergom-Kertváros, Hungary) (represented by: L. Szabó, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the General Court should:

- declare that Commission Decision SA.29432 — CP 290/2009 — Hungary — ‘Aid for the employment of disabled workers alleged to be unlawful due to the discriminatory nature of the legislation’, of 20 July 2011, and Commission Decision SA.45498 (FC/2016) — ‘Complaint made by OPS Újpest-lift Kft. concerning the State aid granted between 2006 and 2012 to companies employing disabled workers’, of 25 January 2017, (‘the contested decisions’) do not find that the State aid is compatible on the basis of Article 107(1) TFEU;
- in the alternative, declare that the contested decisions do not constitute legally binding acts as regards the applicant in its action for damages brought against the Emberi Erőforrások Minisztériuma (Ministry of Human Resources, Hungary) in Case No 18. G. 40.399/2017 before the Fővárosi Törvényszék (Budapest High Court, Hungary), and that, for that reason, the applicant is not directly and individually concerned, since it bases its claim for damages on the infringement of Article 107(1) TFEU, and not on the infringement of Article 107(3) TFEU;
- in the event that the contested decisions should be characterised as legally binding acts as regards the applicant in its action for damages based on the infringement of Article 107(1) TFEU, declare the contested decisions invalid, since the State aid granted by the Hungarian authorities infringes Article 107(1) TFEU.

**Pleas in law and main arguments**

In support of its action, the applicant invokes a legal basis in relation to each of its claims.

**1. Legal basis for the first claim**

- The contested decisions do not find that the State aid is compatible on the basis of Article 107(1) TFEU; for that reason, those decisions do not constitute legally binding acts in the context of the action for damages brought by the applicant against the Emberi Erőforrások Minisztériuma (Ministry of Human Resources, Hungary) before the Fővárosi Törvényszék (Budapest High Court, Hungary).

**2. Legal basis for the second claim**

- In the contested decisions, the Commission found that the State aid was compatible, not on the basis of Article 107(1) TFEU, invoked by the applicant, but rather on the basis of Article 107(3) TFEU. Consequently, those decisions are irrelevant in relation to the legal basis of the claim made in the action for damages brought before the Fővárosi Törvényszék (Budapest High Court, Hungary) and do not constitute legally binding acts as regards the applicant.

**3. Legal basis for the third claim**

- According to the applicant, the contested decisions are invalid because the Hungarian authorities granted unlawful State aid that infringed Article 107(1) TFEU and, pursuant to Article 108(3) TFEU, the Commission should have been informed. In order to support its allegation that the aid is unlawful, the applicant relies on the Commission Notice on the notion of State aid as referred to in Article 107(1) [TFEU] <sup>(1)</sup> and on Commission Regulation (EC) No 800/2008 of 6 August 2008, declaring certain categories of aid compatible with the common market in application of Articles [107] and [108 TFEU] (General block exemption). <sup>(2)</sup>

<sup>(1)</sup> OJ 2016, C 262, p. 1.

<sup>(2)</sup> OJ 2008, L 214, p. 3.