

Defendant: European Union Intellectual Property Office (represented by: J. Ivanauskas and K. Sidat Humphreys, acting as Agents)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 14 February 2017 (Case R 1682/2016-5), concerning an application for registration of the word sign ONCOTYPE DX GENOMIC PROSTATE SCORE as an EU trade mark.

Operative part of the judgment

The Court:

1. *Dismisses the action;*
2. *Orders Genomic Health, Inc., to pay the costs.*

⁽¹⁾ OJ C 249, 31.7.2017.

Action brought on 26 March 2018 –Romańska v Frontex

(Case T-212/18)

(2018/C 200/56)

Language of the case: Polish

Parties

Applicant: Karolina Romańska (Warsaw, Poland) (represented by: A. Tetkowska, lawyer)

Defendant: European Border and Coast Guard Agency

Form of order sought

The applicant claims that the Court should:

- declare the application both admissible and well founded;
- annul the decision of 14 June 2017 of the European Border and Coast Guard Agency, headquartered in Warsaw, terminating Karolina Romańska's employment contract on the basis of Article 47 of the Conditions of Employment of Other Servants of the European Union;
- find that the European Border and Coast Guard Agency committed acts of harassment and discrimination against Karolina Romańska;
- require the European Border and Coast Guard Agency to cease committing acts of discrimination and harassment against its workers and to introduce an anti-discrimination and anti-harassment policy within the Agency;
- order the European Border and Coast Guard Agency to pay Karolina Romańska damages, to be fixed *ex aequo et bono* at EUR 100 000, by way of compensation for the non-material damage suffered;
- order the European Border and Coast Guard Agency to pay damages in the amount of PLN 4 402 by way of compensation for the material damage suffered;
- order the European Border and Coast Guard Agency to pay the costs of the proceedings in their entirety.

Pleas in law and main arguments

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

1. First plea in law, alleging that the defendant Agency committed acts of harassment and discrimination against the applicant. During the time she was employed by the defendant, the applicant was the victim of harassment, humiliation, scapegoating, public humiliation and other abusive conduct within her sector, of which her superiors were aware but in respect of which no action was taken.

2. Second plea in law, alleging that the harassment at the Agency triggered a health disorder. In April 2016 the applicant suffered a sudden and acute health disorder, as confirmed by her medical records and for which she is still undergoing treatment. The doctors established that this health disorder was nervous in origin, caused in particular by harassment at work and burn out. The applicant incurred the medical expenses which are set out in the medical records appended to the application.
3. Third plea in law, alleging a failure to provide assistance in connection with harassment and discrimination at the defendant Agency. The applicant turned to the defendant for assistance, as referred to in the EU Staff Regulations, in connection with harassment and discrimination at the Agency. The applicant submitted a series of suggestions to the defendant as to how the situation might, in her view, be acceptably resolved. The defendant ignored the issue of the applicant's health and remained passive, tolerating a situation that was deleterious to the applicant and allowing that situation to continue.
4. Fourth plea in law, alleging discrimination against the applicant by the defendant on the basis of her gender, nationality and trade union membership. The applicant repeatedly applied for a higher position at the Agency. Notwithstanding her extensive education, command of several foreign languages, excellent annual appraisals and continuing efforts to improve her qualifications, the applicant was never promoted. The reasons for this state of affairs are discriminatory. Following the applicant's repeated contact with the defendant concerning the acts of harassment and discrimination suffered by her, the defendant proposed that the applicant go on a mission, for which she made all the necessary preparations, including learning a foreign language from scratch to the level of being able to communicate in that language, and then the defendant cancelled the mission four days prior to departure. The defendant justified the cancellation of the mission on the grounds of the applicant's contact with a trade union.
5. Fifth plea in law, alleging that the applicant was unjustifiably dismissed. The applicant's dismissal was unfair and unsubstantiated. The termination of the employment contract was the result of the applicant's refusal to accept a situation in which she was subjected to harassment and discrimination at the defendant Agency.

Action brought on 2 April 2018 — Global Silicones Council and Others v Commission

(Case T-226/18)

(2018/C 200/57)

Language of the case: English

Parties

Applicants: Global Silicones Council (Washington, United States), Wacker Chemie AG (Munich, Germany), Momentive Performance Materials GmbH (Leverkusen, Germany), Shin-Etsu Silicones Europea BV (Almere, Netherlands), Elkem Silicones France SAS (Lyon, France) (represented by: M. Navin-Jones, Solicitor)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- Annul the Contested Act under Article 263 TFEU;
- Declare that Annex XIII of the REACH Regulation, and/or relevant provisions of this Annex (in particular, Sections 1.1.2 and/or 1.2.2), are illegal and inapplicable in the case at hand, pursuant to Article 277 TFEU, insofar as they prevent or distort a valid assessment and/or conclusion on the properties of D4 and D5;
- In the event that: (a) the European Chemicals Agency ('ECHA') Member State Committee's Opinion of April 2015; (b) the ECHA Committee for Risk Assessment's Opinion of March 2016; (c) the ECHA Socio-Economic Assessment Committee Opinion of June 2016; (d) the ECHA PBT Expert Group conclusions / decisions of November 2012; and/or (e) relevant ECHA Guidance — are not regarded as preparatory acts leading to the adoption of the Contested Act — to declare those acts as illegal and inapplicable pursuant to Article 277 TFEU;