



C/2023/337

30.10.2023

**Order of the General Court of 23 August 2023 — Nienaber v EUIPO — St. Hippolyt Mühle Ebert (BoneKare)**

(Case T-609/22) <sup>(1)</sup>

*(EU trade mark — Invalidity proceedings — EU word mark BoneKare — Absolute ground for invalidity — Descriptive character — Article 7(1)(c) and Article 52(1)(a) of Regulation (EC) No 207/2009 (now Article 7(1)(c) and Article 59(1)(a) of Regulation (EU) 2017/1001) — Examination of the facts of EUIPO's own motion — Article 95(1) of Regulation 2017/1001 — Action manifestly lacking any foundation in law)*

(C/2023/337)

Language of the case: German

**Parties**

*Applicant:* Andreas Nienaber (Cloppenburg, Germany) (represented by: J. Eberhardt, lawyer)

*Defendant:* European Union Intellectual Property Office (represented by: T. Klee, acting as Agent)

*Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court:* St. Hippolyt Mühle Ebert GmbH (Dielheim, Germany) (represented by: M. Gail, lawyer)

**Re:**

By his action under Article 263 TFEU, the applicant seeks the annulment of the decision of the First Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 4 August 2022 (Case R 436/2022-1).

**Operative part of the order**

1. The action is dismissed.
2. Mr Andreas Nienaber shall bear his own costs and pay those incurred by St. Hippolyt Mühle Ebert GmbH.
3. The European Union Intellectual Property Office (EUIPO) shall bear its own costs.

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<sup>(1)</sup> OJ C 441, 21.11.2022.