

- allow the EU trade mark application number 13 238 308 to proceed to publication; and
- order the Office to bear its own costs and pay the Applicant's costs.

#### **Pleas in law**

- The Office has not taken proper account of the services for which the Application has been made;
- The Office has not properly considered the mark applied for as a whole. Rather, it has broken the mark down into parts using definitions of MEDIA ARTS and MEDIA LAB and stated that these parts are descriptive. It has not addressed the effect of the mark as a whole;
- The Office has failed to accept that the mark is considerably more impenetrable than the PIPELINE decision that they rely upon;
- Despite (and in breach of) the principle of equality of treatment, the Office has not followed its previous practice of accepting marks with the word MEDIA for advertising in combination with other 'unusual' locations.

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### **Action brought on 29 June 2016 — Tillotts Pharma v EUIPO — Ferring (XENASA)**

**(Case T-362/16)**

(2016/C 314/44)

*Language in which the application was lodged: English*

#### **Parties**

*Applicant:* Tillotts Pharma AG (Rheinfelden, Switzerland) (represented by: M. Douglas, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Ferring BV (Hoofddorp, Netherlands)

#### **Details of the proceedings before EUIPO**

*Applicant of the trade mark at issue:* Applicant

*Trade mark at issue:* EU word mark 'XENASA' — Application for registration No 11 920 055

*Procedure before EUIPO:* Opposition proceedings

*Contested decision:* Decision of the Fourth Board of Appeal of EUIPO of 29 April 2016 in Case R 3264/2014-4

#### **Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO to pay the costs.

#### **Plea in law**

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