

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union figurative mark FLIS Happy Moreno choco — Application for registration No 15 030 786

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 13 September 2018 in Case R 2113/2017-1

Form of order sought

The applicant claims that the Court should:

— annul the contested decision and refer the case back to EUIPO for reconsideration;

or

— alter the contested decision by stating that there are no relative grounds for refusal of registration of the EUTMA 015030786 'Flis Happy Moreno choco' for all the goods and services in classes 30 and 35, and the trademark shall be registered;

— award the costs in the applicant's favour.

Pleas in law

- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of the principle of the protection of legitimate expectations and the principle of legal certainty.

Action brought on 3 December 2018 — Umweltinstitut München v Commission

(Case T-712/18)

(2019/C 44/103)

Language of the case: German

Parties

Applicant: Umweltinstitut München — Verein zur Erforschung und Verminderung der Umweltbelastung eV (Munich, Germany) (represented by: M. John, lawyer)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— annul the defendant's negative decision of 2 October 2018 (C(2018) 6539 final).

Pleas in law and main arguments

By means of the present action, the applicant seeks annulment of the Commission's negative decision of 2 October 2018 definitively refusing the applicant access to the documents pertaining to the first meeting of the CETA Joint Committee, which took place on 26 and 27 March 2018.

In support of the action, the applicant relies on the following plea in law:

Infringement of Article 15(3) TFEU in conjunction with Article 2 of Regulation (EC) No 1049/2001 of the European Parliament and of the Council, ⁽¹⁾ since the defendant was not entitled, pursuant to Article 4 of Regulation No 1049/2001, to refuse (partial) access to the requested documents.

⁽¹⁾ Regulation (EC) No 1049/2001 of the European Parliament and of the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ 2001 L 145, p. 43).

Action brought on 3 December 2018 — Esim Chemicals v EUIPO — Sigma-Tau Industrie Farmaceutiche Riunite (ESIM Chemicals)

(Case T-713/18)

(2019/C 44/104)

Language of the case: English

Parties

Applicant: Esim Chemicals GmbH (Linz, Austria) (represented by: I. Rungg and I. Innerhofer, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Sigma-Tau Industrie Farmaceutiche Riunite (Rome, Italy)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Applicant before the General Court

Trade mark at issue: Application for European Union word mark ESIM Chemicals — Application for registration No 14 465 331

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 2 October 2018 in Case R 1267/2018-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- resume the appeal proceedings and follow the arguments brought forward in the appeal R 1267/2018-5;
- *in eventu*, permit the application to reopen the proceedings of 29 October 2018, for a substantive decision by the Fifth Board of Appeal;
- order the defendant to bear the costs of the procedure.

Plea in law

- Infringement of Article 68 of Regulation (EU) 2017/1001 of the European Parliament and of the Council.
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