

Form of order sought

The applicant claims that the Court should:

- annul the contested decision and refer the case to the defendant to take further steps in the registration proceedings for EU trade mark 014303465;
- order EUIPO to pay the costs, including those incurred during the proceedings before the Board of Appeal of EUIPO.

Pleas in law

- Infringement of Article 7(1)(b) and (c) of Regulation No 207/2009 and of Article 7(2) of Regulation No 207/2009.

Action brought on 7 December 2016 — C & J Clark International v Commission**(Case T-861/16)**

(2017/C 038/62)

*Language of the case: English***Parties**

Applicant: C & J Clark International Ltd (Somerset, United Kingdom) (represented by: A. Willems and S. De Knop, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- declare the application admissible;
- annul Commission Implementing Regulation (EU) 2016/1647 of 13 September 2016 Re-imposing a definitive anti-dumping duty and collecting definitely the provisional duty imposed on imports of certain footwear with uppers of leather originating in Vietnam and produced by Best Royal Co. Ltd, Lac Cuong Footwear Co., Ltd, Lac Ty Co., Ltd, Saoviet Joint Stock Company (Megastar Joint Stock Company), VMC Royal Co Ltd, Freetrend Industrial Ltd and its related company Freetrend Industrial A (Vietnam) Co, Ltd, Fulgent Sun Footwear Co., Ltd, General Shoes Ltd, Golden Star Co, Ltd, Golden Top Company Co., Ltd, Kingmaker Footwear Co. Ltd, Tripos Enterprise Inc., Vietnam Shoe Majesty Co., Ltd, and implementing the judgment of the Court of Justice in joined cases C-659/13 and C-34/14 (OJ L 245, p. 16);
- order the European Commission to pay the costs.

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 by proceeding without a valid legal basis, the Commission violated the principle of conferral under Articles 5(1) and 5(2) TEU;
2. Second plea in law, alleging that by failing to take the necessary measures to comply with the judgment of the Court of Justice of 4 February 2016, *C & J Clark International*, C-659/13 and C-34/14, EU:C:2016:74, the Commission violated Article 266 TFEU;
3. Third plea in law, alleging that by imposing an anti-dumping duty on imports of Footwear ‘which took place during the period of application of the [Invalidated Regulations]’, the Commission violated Article 1(1) and 10(1) of the Basic Regulation⁽¹⁾ and the principle of legal certainty (non-retroactivity);
4. Fourth plea in law, alleging that by imposing an anti-dumping duty without conducting a fresh Union interest assessment, the Commission violated Article 21 of the Basic Regulation, and that, in any event, it would have been manifestly erroneous to conclude that the imposition of the anti-dumping duty was in the Union interest;

5. Fifth plea in law, alleging that by adopting an act that exceeds what is necessary to achieve its objective, the Commission violated Articles 5(1) and 5(4) TEU.

(¹) Regulation (EU) 2016/1036 of the European Parliament and of the Council of 8 June 2016 on protection against dumped imports from countries not members of the European Union, OJ L 176, p. 21.

Action brought on 7 December 2016 — fritz-kulturgüter v EUIPO — Sumol + Compal Marcas (fritz-wasser)

(Case T-862/16)

(2017/C 038/63)

Language in which the application was lodged: German

Parties

Applicant: fritz-kulturgüter GmbH (Hamburg, Germany) (represented by: G. Schindler, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Sumol + Compal Marcas, SA (Oeiras Carnaxide, Portugal)

Details of the proceedings before EUIPO

Applicant for the trade mark at issue: Applicant

Trade mark at issue: EU word mark ‘fritz-wasser’ — Application No 12 314 753

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 7 October 2016 in Case R 1510/2015-5

Form of order sought

The applicant claims that the Court should:

- alter the contested decision to the effect that the appeal is dismissed in its entirety;
- allow application No 012 314 753 to proceeding to registration;
- order the opponent to pay the costs of the appeal proceedings and order the defendant to pay the remainder of the costs.

Plea in law

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

Action brought on 5 December 2016 — Le Pen v Parliament

(Case T-863/16)

(2017/C 038/64)

Language of the case: French

Parties

Applicant: Jean-Marie Le Pen (Saint-Cloud, France) (represented by: M. Ceccaldi and J.-P. Le Moigne, lawyers)

Defendant: European Parliament