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Information and Notices

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COURT OF JUSTICE OF THE EUROPEAN UNION

Last publications of the Court of Justice of the European Union in the *Official Journal of the European Union*

(2020/C 114/01)

Last publication

OJ C 103, 30.3.2020

Past publications

OJ C 95, 23.3.2020

OJ C 87, 16.3.2020

OJ C 77, 9.3.2020

OJ C 68, 2.3.2020

OJ C 61, 24.2.2020

OJ C 54, 17.2.2020

These texts are available on:

EUR-Lex: <http://eur-lex.europa.eu>

GENERAL COURT

Formation of Chambers and assignment of Judges to Chambers

(2020/C 114/02)

On 11 March 2020, the General Court, composed of 50 Judges, decided, following Ms Labucka's exemption from sitting as a Judge, granted by the Court of Justice with effect as of 25 February 2020, on a proposal from the President submitted pursuant to Article 13(2) of the Rules of Procedure, to amend the decision on the formation of Chambers of 30 September 2019 ⁽¹⁾, as amended ⁽²⁾, and the decision on the assignment of Judges to Chambers of 4 October 2019 ⁽³⁾, as amended ⁽⁴⁾, in respect of the period from 11 March 2020 to 31 August 2022 and to assign the Judges to Chambers as follows:

First Chamber (Extended Composition), sitting with five Judges:

Mr Kanninen, President of the Chamber, Mr Jaeger, Ms Póltorak, Ms Porchia and Ms Stancu, Judges.

First Chamber, sitting with three Judges:

Mr Kanninen, President of the Chamber;

Formation A: Mr Jaeger and Ms Póltorak, Judges;

Formation B: Mr Jaeger and Ms Porchia, Judges;

Formation C: Mr Jaeger and Ms Stancu, Judges;

Formation D: Ms Póltorak and Ms Porchia, Judges;

Formation E: Ms Póltorak and Ms Stancu, Judges;

Formation F: Ms Porchia and Ms Stancu, Judges.

Second Chamber (Extended Composition), sitting with five Judges:

Ms Tomljenović, President of the Chamber, Mr Schalin, Ms Škvařilová-Pelzl, Mr Nömm and Ms Steinfatt Judges.

Second Chamber, sitting with three Judges:

Ms Tomljenović, President of the Chamber;

Formation A: Mr Schalin and Ms Škvařilová-Pelzl, Judges;

Formation B: Mr Schalin and Mr Nömm, Judges;

⁽¹⁾ OJ 2019 C 372, p. 3.

⁽²⁾ OJ 2020 C 68, p. 2.

⁽³⁾ OJ 2019 C 372, p. 3.

⁽⁴⁾ OJ 2020 C 68, p. 2.

Formation C: Ms Škvařilová-Pelzl and Mr Nömm, Judges.

Third Chamber (Extended Composition), sitting with five Judges:

Mr Collins, President of the Chamber, Mr Kreuzschitz, Mr Csehi, Mr De Baere and Ms Steinfatt, Judges.

Third Chamber, sitting with three Judges:

Mr Collins, President of the Chamber;

Formation A: Mr Kreuzschitz and Mr Csehi, Judges;

Formation B: Mr Kreuzschitz and Mr De Baere, Judges;

Formation C: Mr Kreuzschitz and Ms Steinfatt, Judges;

Formation D: Mr Csehi and Mr De Baere, Judges;

Formation E: Mr Csehi and Ms Steinfatt, Judges;

Formation F: Mr De Baere and Ms Steinfatt, Judges.

Fourth Chamber (Extended Composition), sitting with five Judges:

Mr Gervasoni, President of the Chamber, Mr Madise, Mr Nihoul, Ms Frendo and Mr Martín y Pérez de Nanclares, Judges.

Fourth Chamber, sitting with three Judges:

Mr Gervasoni, President of the Chamber;

Formation A: Mr Madise and Mr Nihoul, Judges;

Formation B: Mr Madise and Ms Frendo, Judges;

Formation C: Mr Madise and Mr Martín y Pérez de Nanclares, Judges;

Formation D: Mr Nihoul and Ms Frendo, Judges;

Formation E: Mr Nihoul and Mr Martín y Pérez de Nanclares, Judges;

Formation F: Ms Frendo and Mr Martín y Pérez de Nanclares, Judges.

Fifth Chamber (Extended Composition), sitting with five Judges:

Mr Spielmann, President of the Chamber, Mr Öberg, Ms Spineanu-Matei, Mr Mastroianni and Mr Norkus, Judges.

Fifth Chamber, sitting with three Judges:

Mr Spielmann, President of the Chamber;

Formation A: Mr Öberg and Ms Spineanu-Matei, Judges;

Formation B: Mr Öberg and Mr Mastroianni, Judges;

Formation C: Ms Spineanu-Matei and Mr Mastroianni, Judges.

Sixth Chamber (Extended Composition), sitting with five Judges:

Ms Marcoulli, President of the Chamber, Mr Frimodt Nielsen, Mr Schwarcz, Mr Iliopoulos and Mr Norkus, Judges.

Sixth Chamber, sitting with three Judges:

Ms Marcoulli, President of the Chamber;

Formation A: Mr Frimodt Nielsen and Mr Schwarcz, Judges;

Formation B: Mr Frimodt Nielsen and Mr Iliopoulos, Judges;

Formation C: Mr Frimodt Nielsen and Mr Norkus, Judges;

Formation D: Mr Schwarcz and Mr Iliopoulos, Judges;

Formation E: Mr Schwarcz and Mr Norkus, Judges;

Formation F: Mr Iliopoulos and Mr Norkus, Judges.

Seventh Chamber (Extended Composition), sitting with five Judges:

Mr da Silva Passos, President of the Chamber, Mr Valančius, Ms Reine, Mr Truchot and Mr Sampol Pucurull, Judges.

Seventh Chamber, sitting with three Judges:

Mr da Silva Passos, President of the Chamber;

Formation A: Mr Valančius and Ms Reine, Judges;

Formation B: Mr Valančius and Mr Truchot, Judges;

Formation C: Mr Valančius and Mr Sampol Pucurull, Judges;

Formation D: Ms Reine and Mr Truchot, Judges;

Formation E: Ms Reine and Mr Sampol Pucurull, Judges;

Formation F: Mr Truchot and Mr Sampol Pucurull, Judges.

Eighth Chamber (Extended Composition), sitting with five Judges:

Mr Svenningsen, President of the Chamber, Mr Barents, Mr Mac Eochaidh, Ms Pynnä and Mr Laitenberger, Judges.

Eighth Chamber, sitting with three Judges:

Mr Svenningsen, President of the Chamber;

Formation A: Mr Barents and Mr Mac Eochaidh, Judges;

Formation B: Mr Barents and Ms Pynnä, Judges;

Formation C: Mr Barents and Mr Laitenberger, Judges;

Formation D: Mr Mac Eochaidh and Ms Pynnä, Judges;

Formation E: Mr Mac Eochaidh and Mr Laitenberger, Judges;

Formation F: Ms Pynnä and Mr Laitenberger, Judges.

Ninth Chamber (Extended Composition), sitting with five Judges:

Ms Costeira, President of the Chamber, Mr Gratsias, Ms Kancheva, Mr Berke and Ms Perišin, Judges.

Ninth Chamber, sitting with three Judges:

Ms Costeira, President of the Chamber;

Formation A: Mr Gratsias and Ms Kancheva, Judges;

Formation B: Mr Gratsias and Mr Berke, Judges;

Formation C: Mr Gratsias and Ms Perišin, Judges;

Formation D: Ms Kancheva and Mr Berke, Judges;

Formation E: Ms Kancheva and Ms Perišin, Judges;

Formation F: Mr Berke and Ms Perišin, Judges.

Tenth Chamber (Extended Composition), sitting with five Judges:

Mr Kornezov, President of the Chamber, Mr Buttigieg, Mr Passer, Ms Kowalik-Bańczyk and Mr Hesse, Judges.

Tenth Chamber, sitting with three Judges:

Mr Kornezov, President of the Chamber;

Formation A: Mr Buttigieg and Mr Passer, Judges;

Formation B: Mr Buttigieg and Ms Kowalik-Bańczyk, Judges;

Formation C: Mr Buttigieg and Mr Hesse, Judges;

Formation D: Mr Passer and Ms Kowalik-Bańczyk, Judges;

Formation E: Mr Passer and Mr Hesse, Judges;

Formation F: Ms Kowalik-Bańczyk and Mr Hesse, Judges.

The Second Chamber, composed of four Judges, shall be extended by including a fifth Judge from the Third Chamber. The fifth Judge shall be designated according to the reverse order to the order laid down in Article 8 of the Rules of Procedure for the period ending on 31 August 2022.

The General Court confirms its decision of 4 October 2019 that the First, Fourth, Seventh and Eighth Chambers shall hear cases brought under Article 270 TFEU and, where appropriate, Article 50a of the Protocol on the Statute of the Court of Justice of the European Union, and that the Second, Third, Fifth, Sixth, Ninth and Tenth Chambers shall hear cases relating to intellectual property rights referred to in Title IV of the Rules of Procedure.

The General Court also confirms that the President and the Vice-President shall not be attached permanently to a Chamber.

In addition, the General Court decides that:

- in the course of each judicial year, the Vice-President shall sit in each of the ten Chambers sitting with five Judges, on the basis of one case per Chamber in the following order:
 - the first case referred back, by decision of the General Court, to an extended Chamber sitting with five Judges of the First Chamber, the Second Chamber, the Third Chamber, the Fourth Chamber and the Fifth Chamber,
 - the third case referred back, by decision of the General Court, to an extended Chamber sitting with five Judges of the Sixth Chamber, the Seventh Chamber, the Eighth Chamber, the Ninth Chamber and the Tenth Chamber.

Where the Chamber in which the Vice-President sits is composed of:

- five Judges; the extended Chamber shall be composed of the Vice-President, Judges from the Chamber sitting with three Judges originally seized as well as one of the other Judges of the Chamber in question, determined on the basis of the reverse order to the order laid down in Article 8 of the Rules of Procedure,
 - four Judges; the extended Chamber shall be composed of the Vice-President, Judges from the Chamber sitting with three Judges originally seized and the fourth Judge of the Chamber in question.
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V

(Announcements)

COURT PROCEEDINGS

GENERAL COURT

Judgment of the General Court of 12 February 2020 — ZF v Commission

(Case T-605/18) ⁽¹⁾

(Civil service — Members of the temporary staff — Pension — Decision determining pension rights — Pension statements — Action for annulment — Time limit for lodging a complaint — Delay — Purely confirmatory act — Partial inadmissibility — Recovery of undue payments — Classification in grade and step — Multiplication factor — Withdrawal of an unlawful act — Legitimate expectation — Reasonable time)

(2020/C 114/03)

Language of the case: French

Parties

Applicant: ZF (represented by J.-N. Louis, lawyer)

Defendant: European Commission (represented by B. Mongin and L. Radu Bouyon, acting as Agents)

Re:

Application under Article 270 TFEU for annulment of the note of 30 November 2017 by which the Office for Administration and Payment of Individual Entitlements (PMO) of the Commission amended, with effect from 1 April 2015, the applicant's retirement pension rights, and the note of 31 January 2018 in which it informed the applicant of the amount of the balance of the European Union's debts against him.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders the European Commission to pay, in addition to its own costs, half of ZF's costs.

⁽¹⁾ OJ C 455, 17.12.2018.

Judgment of the General Court of 27 February 2020 — Bog-Fran v EUIPO — Fabryki Mebli 'Forte' (Furniture)

(Case T-159/19) ⁽¹⁾

(Community design — Invalidity proceedings — Registered Community design representing an item of furniture — Ground for invalidity — No individual character — Disclosure of the earlier design — Proof of disclosure — Article 7 and Article 25(1)(b) of Regulation (EC) No 6/2002)

(2020/C 114/04)

Language of the case: English

Parties

Applicant: Bog-Fran sp. z o.o. sp.k. (Warsaw, Poland) (represented by: M. Mikosza, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Gája and H. O'Neill, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Fabryki Mebli 'Forte' S.A. (Ostrów Mazowiecka, Poland) (represented by: H. Basiński, lawyer)

Re:

Action brought against the decision of the Third Board of Appeal of EUIPO of 14 January 2019 (Case R 291/2018-3), relating to invalidity proceedings between Bog-Fran and Fabryki Mebli 'Forte'.

Operative part of the judgment

The Court:

1. Annuls the decision of the Third Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 14 January 2019 (Case R 291/2018-3), relating to invalidity proceedings between Bog-Fran sp. z o.o. sp.k. and Fabryki Mebli 'Forte' S.A.;
2. Dismisses the action as to the remainder;
3. Orders EUIPO to bear its own costs and to pay those incurred by Bog-Fran;
4. Orders Fabryki Mebli 'Forte' to bear its own costs.

⁽¹⁾ OJ C 155, 6.5.2019.

Judgment of the General Court of 27 February 2020 — Knaus Tabbert v EUIPO — Carado (CaraTour)

(Case T-202/19) ⁽¹⁾

(European Union trade mark — Opposition proceedings — Application for European Union word mark CaraTour — Earlier European Union word mark Carado — Relative ground for refusal — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 114/05)

Language of the case: German

Parties

Applicant: Knaus Tabbert GmbH (Jandelsbrunn, Germany) (represented by: N. Maenz, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Walicka, Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Carado GmbH (Leutkirch im Allgäu, Germany (represented by: A. Otto, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 14 January 2019 (Case R 506/2018-5) relating to opposition proceedings between Carado and Knaus Tabbert.

Operative part of the judgment

The Court:

1. dismisses the application;
2. orders Knaus Tabbert GmbH to bear the costs.

⁽¹⁾ OJ C 182, 27. 5. 2019.

Judgment of the General Court of 27 February 2020 — Knaus Tabbert v EUIPO — Carado (CaraTwo)

(Case T-203/19) ⁽¹⁾

(European Union trade mark — Opposition proceedings — Application for European Union word mark CaraTwo — Earlier European Union word mark Carado — Relative ground for refusal — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2020/C 114/06)

Language of the case: German

Parties

Applicant: Knaus Tabbert GmbH (Jandelsbrunn, Germany) (represented by: N. Maenz, lawyer)

Defendant: European Union Intellectual Property Office (represented by: D. Walicka, Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Carado GmbH (Leutkirch im Allgäu, Germany)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 14 January 2019 (Case R 851/2018-5), relating to opposition proceedings between Carado and Knaus Tabbert.

Operative part of the judgment

The Court:

1. dismisses the application;
2. orders Knaus Tabbert to bear the costs.

⁽¹⁾ OJ C 182, 27. 5. 2019.

Order of the General Court of 5 February 2020 — Apple v EUIPO (Stylets)(Case T-212/19) ⁽¹⁾***(Community design — Division of the application for registration remedying the irregularity which had led to the refusal of registration — No need to adjudicate)***

(2020/C 114/07)

*Language of the case: English***Parties***Applicant:* Apple Inc. (Cupertino, California, United States) (represented by: H. Hartwig and A. von Mühlendahl, lawyers)*Defendant:* European Union Intellectual Property Office (represented by: S. Hanne and D. Botis, acting as Agents)**Re:**

Action brought against the decision of the Third Board of Appeal of EUIPO of 7 January 2019 (Case R 2533/2017-3), relating to an application for registration of a Community design representing a stylus.

Operative part of the order

1. There is no longer any need to adjudicate on the action;
2. Apple Inc. shall pay the costs.

⁽¹⁾ OJ C 182, 27.5.2019.

Order of the General Court of 7 February 2020 — Fleximed v EUIPO — docPrice (Fleximed)(Case T-214/19) ⁽¹⁾***(EU trade mark — Invalidity proceedings — EU word mark Fleximed — Earlier EU word mark mediFLEX — Relative grounds for refusal — Likelihood of confusion — Article 8(1) of Regulation (EU) 2017/1001 — Action manifestly lacking any foundation in law)***

(2020/C 114/08)

*Language of the proceedings: German***Parties***Applicant:* Fleximed AG (Triesen, Liechtenstein) (represented by: M. Gail, lawyer)*Defendant:* European Union Intellectual Property Office (represented by: W. Schramek and A. Söder, acting as Agents)*Other party to the proceedings before the Board of Appeal of EUIPO:* docPrice GmbH (Koblenz, Germany)**Re:**

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 6 February 2019 (case R 1121/2018-4), relating to invalidity proceedings between docPrice and Fleximed.

Operative part of the order

1. The action is dismissed as manifestly lacking any foundation in law.
2. Fleximed AG is ordered to pay the costs.

(¹) OJ C 182, 27.5.2019

Action brought on 22 January 2020 — IF v Parliament**(Case T-36/20)**

(2020/C 114/09)

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

Applicant: IF (represented by: C. Bernard-Glanz, lawyer)

Defendant: European Parliament

Form of order sought

The applicant claims that the Court should:

- annul the decision 16 April 2019 relieving the applicant of her duties as Deputy Secretary General of the Alliance of Liberals and Democrats for Europe;
- order the defendant to pay an amount of EUR 50 000 in compensation for the non-material damage suffered, together with interest at the legal rate until payment in full has been made;
- order the defendant to pay an amount of EUR 1 000 in compensation for the impossibility to restore the applicant in her original legal position, together with interest at the legal rate until payment in full has been made;
- order the defendant to pay the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging lack of competence of the author of the act and breach of 'the principle of congruent forms'.
 - It is argued in that regard that, whereas the contested decision was adopted by the Presidency of the Group, it should have been adopted by the Bureau thereof.
2. Second plea in law, alleging breach of the right to be heard before a measure affecting one adversely is taken.
 - It is argued in that regard that the applicant was not given the opportunity to effectively put forward her point of view, before the contested decision was adopted.

3. Third plea in law, alleging breach of the right to have one's affairs handled fairly, impartially and carefully, and failure to state adequate reasons.

— It is argued in that regard that:

- the Presidency was not presented with all the relevant particulars of the case concerned with care and impartiality, before adopting the contested decision; and
- in endorsing the note of the Secretary General of the Group of 12 April 2019, which contained erroneous grounds, the Presidency tainted the contested decision with the same defect.

Action brought on 29 January 2020 — PNB Banka v ECB

(Case T-50/20)

(2020/C 114/10)

Language of the case: English

Parties

Applicant: PNB Banka AS (Riga, Latvia) (represented by: O. Behrends, lawyer)

Defendant: European Central Bank (ECB)

Form of order sought

The applicant claims that the Court should:

- annul the ECB's decision of 19 November 2019 by which the ECB refuses to comply with the request to instruct the administrator of PNB Banka to grant access to the bank, its information, staff and resources;
- order the defendant to bear 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 the ECB erroneously assumed that the requested instruction is outside its competences.
 2. Second plea in law, alleging that the ECB violated the bank's right to an effective remedy.
 3. Third plea in law, alleging that the contested decision violated the bank's right to be heard.
 4. Fourth plea in law, alleging that the ECB violated the bank's right to an appropriately reasoned decision.
 5. Fifth plea in law, alleging that the ECB violated the *nemo auditur* principle because the appointment of the administrator and the interference with the representation of the Bank by its Board as its lawful representative is due to wrongful conduct by the ECB.
-

Action brought on 30 January 2020 — IMI 2 Joint Undertaking v CHS**(Case T-53/20)**

(2020/C 114/11)

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

Applicant: IMI 2 Joint Undertaking (represented by: D. Waelbroeck, A. Duron and F. Federici, lawyers)

Defendant: Choice Healthcare Solutions Ltd (Cardiff, United Kingdom)

Form of order sought

The applicant claims that the Court should:

- order the defendant to reimburse to the applicant EUR 128 996,04, plus interest, in relation to Grant Agreement 115011 regarding the project 'PROactive — Physical Activity as a Crucial Patient Reported Outcome in COPD', subject to interest at the rate applied by the European Central Bank for its main refinancing operations plus 3,5 % as of 23 July 2019, until the date of receipt of the funds to be reimbursed to the applicant;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicant concluded a grant agreement with the defendant regarding the project 'PROactive — Physical Activity as a Crucial Patient Reported Outcome in COPD'.

In support of its application brought on the basis of Article 272 of the Treaty on the Functioning of the European Union, the applicant relies on breaches of the conditions of the said grant agreement by the defendant with regard to the costs claimed by it.

Action brought on 6 February 2020 — Puma v EUIPO — CAMäleon (PUMA-System)**(Case T-71/20)**

(2020/C 114/12)

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

Applicant: Puma SE (Herzogenaurach, Germany) (represented by: P. GonzálezBueno Catalán de Ocón, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: CAMäleon Produktionsautomatisierung GmbH (Dettenhausen, Germany)

Details of the proceedings before EUIPO

Applicant of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Application for European Union word mark PUMA-System — Application for registration No 16 786 907

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the First Board of Appeal of EUIPO of 27 November 2019 in Case R 404/2019-1

Form of order sought

The applicant claims that the Court should:

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

Pleas in law

- Breach of the principle of sound administration;
- Infringement of Article 8(1)(b), Article 94 and Article 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 8(5) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 11 February 2020 — Klose v EUIPO (Representation of three coloured segments in a rectangle)

(Case T-81/20)

(2020/C 114/13)

Language of the case: German

Parties

Applicant: Anne-Marie Klose (Hamburg, Germany) (represented by: I. Seher, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU figurative mark (Representation of three coloured segments in a rectangle) — Application for registration No 18 019 599

Contested decision: Decision of the Second Board of Appeal of EUIPO of 12 December 2019 in Case R 1955/2019-2

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 7(1)(b) in conjunction with Article 7(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 12 February 2020 — bonnanwalt v EUIPO — Bayerischer Rundfunk and Others (tagesschau)**(Case T-83/20)**

(2020/C 114/14)

*Language in which the application was lodged: German***Parties**

Applicant: bonnanwalt Vermögens- und Beteiligungsgesellschaft mbH (Bonn, Germany) (represented by: T. Wendt, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other parties to the proceedings before the Board of Appeal: Bayerischer Rundfunk (Munich, Germany), Hessischer Rundfunk (Frankfurt am Main, Germany), Mitteldeutscher Rundfunk (Leipzig, Germany), Norddeutscher Rundfunk (Hamburg, Germany), Rundfunk Berlin-Brandenburg (Berlin, Germany), Saarländischer Rundfunk (Saarbrücken, Germany), Südwestrundfunk (Mainz, Germany), Westdeutscher Rundfunk Köln (Cologne, Germany), Radio Bremen (Bremen, Germany)

Details of the proceedings before EUIPO

Proprietors of the trade mark at issue: Other parties to the proceedings before the Board of Appeal

Trade mark at issue: EU word mark 'tagesschau' — EU trade mark No 10 237 543

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 12 December 2019 in Case R 1487/2019-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- declare EU trade mark No 10 237 543 to be revoked with effect from 15 November 2017, also in respect of the services 'Provision of news programmes and reports';
- order the EU trade-mark proprietors to pay the costs of the appeal proceedings and of the present proceedings.

Pleas in law

- Infringement of essential procedural requirements (obligation to state reasons);

- Infringement of the first sentence of Article 18(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 58(1)(a) and 58(2) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 12 February 2020 — Qx World v EUIPO — Mandelay (EDUCTOR)

(Case T-84/20)

(2020/C 114/15)

Language of the case: English

Parties

Applicant: Qx World Kft. (Budapest, Hungary) (represented by: Á. László and A. Cserny, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Mandelay Kft. (Szigetszentmiklós, Hungary)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union word mark EDUCTOR — European Union trade mark No 11 043 296

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 25 November 2019 in Case R 1310/2019-5

Form of order sought

The applicant claims that the Court should:

- alter the contested decision in a way to annul the first instance decision and remit the case to EUIPO's Cancellation Division for further prosecution;
- as an alternative, annul both the contested decision and the first instance decision and remit the case to EUIPO's Cancellation Division for further prosecution.

Pleas in law

- Infringement of Article 8(3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of essential procedural requirements.

Action brought on 13 February 2020 — Qx World v EUIPO — Mandelay (EDUCTOR)

(Case T-85/20)

(2020/C 114/16)

Language of the case: English

Parties

Applicant: Qx World Kft. (Budapest, Hungary) (represented by: Á. László and A. Cserny, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Mandelay Kft. (Szigetszentmiklós, Hungary)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union word mark EDUCTOR — European Union trade mark No 12 250 593

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 2 December 2019 in Case R 1311/2019-5

Form of order sought

The applicant claims that the Court should:

- alter the contested decision in a way to annul the first instance decision and remit the case to EUIPO's Cancellation Division for further prosecution;
- as an alternative, annul both the contested decision and the first instance decision and remit the case to EUIPO's Cancellation Division for further prosecution.

Pleas in law

- Infringement of Article 8(3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of essential procedural requirements.

Action brought on 13 February 2020 — Qx World v EUIPO — Mandelay (SCIO)

(Case T-86/20)

(2020/C 114/17)

Language of the case: English

Parties

Applicant: Qx World Kft. (Budapest, Hungary) (represented by: Á. László and A. Cserny, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Mandelay Kft. (Szigetszentmiklós, Hungary)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Other party to the proceedings before the Board of Appeal

Trade mark at issue: European Union word mark SCIO — European Union trade mark No 11 191 194

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 2 December 2019 in Case R 1312/2019-5

Form of order sought

The applicant claims that the Court should:

- alter the contested decision in a way to annul the first instance decision and remit the case to EUIPO's Cancellation Division for further prosecution;
- as an alternative, annul both the contested decision and the first instance decision and remit the case to EUIPO's Cancellation Division for further prosecution.

Pleas in law

- Infringement of Article 8(3) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of essential procedural requirements.

Action brought on 13 February 2020 — Rivière and Others v Parliament

(Case T-88/20)

(2020/C 114/18)

Language of the case: French

Parties

Applicants: Jérôme Rivière (Nice, France) and 10 other applicants (represented by: F. Wagner, lawyer)

Defendant: European Parliament

Form of order sought

The applicants claim that the General Court should:

- annul the oral decision of the President of the European Parliament of 13 January 2020 forbidding national flags being placed on the desks of Members of Parliament;
- order the European Parliament to bear all the costs.

Pleas in law and main arguments

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

1. First plea in law, alleging infringement and distortion in law and fact of Article 10 of the European Parliament's Rules of Procedure and infringement of Article 4 of the Treaty of the European Union, specifically because the small flag placed by a Member of Parliament on his desk is neither a streamer nor a banner. Furthermore, the presence of such a flag does not interfere with the smooth conduct of parliamentary business, the proper functioning of the Parliament's technical equipment or the good order of the Chamber, and does not constitute improper behaviour.
2. Second plea in law, alleging breach of the European Parliament's former practice and of the principle of legal certainty which, according to the case-law, is recognised by the Court of Justice of the European Union as a 'fundamental requirement'.

3. Third plea in law, alleging misuse of power, in so far as, under Article 22 of the European Parliament's Rules of Procedure, the President does not have the power unilaterally to refuse to give the floor to a Member of Parliament for the reason he relied on. The applicants submit that it is the Bureau of the European Parliament which takes decisions on matters relating to the conduct of sittings.

Action brought on 17 February 2020 — Albert Darboven Holding v EUIPO (WINDSOR-CASTLE)

(Case T-93/20)

(2020/C 114/19)

Language of the case: German

Parties

Applicant: Albert Darboven Holding GmbH & Co. KG (Hamburg, Germany) (represented by: A. Thünken, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Details of the proceedings before EUIPO

Trade mark at issue: Application for EU word mark 'WINDSOR-CASTLE' — Application for registration No 17 881 910

Contested decision: Decision of the First Board of Appeal of EUIPO of 19 December 2019 in Case R 2448/2018-1

Form of order sought

The applicant claims that the Court should:

- alter the contested decision to the effect that EU trade mark application No 17 881 910 'WINDSOR-CASTLE' be allowed to proceed to publication also in respect of the goods 'Coffee, tea and substitutes therefor; baked goods and confectionery';

in the alternative,

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

Plea in law

- Infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 20 February 2020 — Biochange Group v EUIPO — Laubender (medical beauty research)

(Case T-98/20)

(2020/C 114/20)

Language in which the application was lodged: German

Parties

Applicant: Biochange Group GmbH (Bad Schlema, Germany) (represented by: C. König, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Laubender GmbH (Vienna, Austria)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant

Trade mark at issue: EU word mark ‘medical beauty research’ — EU trade mark No 4 215 935

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Second Board of Appeal of EUIPO of 8 November 2019 in Case R 114/2019-2

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO and Laubender GmbH, if it should intervene in these proceedings, to pay the costs of the present proceedings and of the appeal proceedings.

Pleas in law

- Infringement of Article 7(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 7(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.
- Infringement of the second sentence of Article 95(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 20 February 2020 — Junqueras i Vies v Parliament

(Case T-100/20)

(2020/C 114/21)

Language of the case: Spanish

Parties

Applicant: Oriol Junqueras i Vies (Sant Joan de Vilatorrada, Spain) (represented by: A. Van den Eynde Adroer, lawyer)

Defendant: European Parliament

Form of order sought

The applicant seeks a declaration by the General Court that the action brought against the contested act and the annexes thereto has been lodged in time, that the action admissible and, having regard to the pleas in law relied upon, seeks the annulment of the contested act of the President of the European Parliament, and an order for the defendant to pay the costs.

Pleas in law and main arguments

This action is brought against the decision of the President of the European Parliament of 10 December 2019 by which (referring to his decision of 22 August 2019 contested before the General Court of the European Union under case number T-734/19, *Junqueras i Vies v Parliament*) it declined to rule on the petition for the protection of immunity submitted by Ms Diana Riba i Giner, MEP, on behalf of the Member of the European Parliament Mr Oriol Junqueras i Vies.

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

1. First plea in law, alleging infringement of Article 39 of the Charter of Fundamental Rights of the European Union (CFREU) and Article 3(1) of the European Convention of Human Rights and Fundamental Freedoms, and Articles 20, 21 (1) and (2) and 41(1) and (2) CRFEU and, in addition, the failure to interpret Articles 7 and 9 of the Rules of Procedure of the European Parliament in accordance with the articles cited.
 - In that regard, the applicant claims that the entry into force of the CFREU as primary law of the EU (specifically the abovementioned articles) grants autonomous subjective rights to MEPs vis-à-vis the European Parliament which must be expressed as a correct interpretation of Articles 7 and 9 of the Rules of Procedure of the European Parliament, specifically that at European level the protection of the immunity enjoyed by MEPs is equal and non-discriminatory on grounds of nationality or, at the very least, as procedural rights that require the European Parliament to rule on the petition for the protection of immunity with the guarantees that such rights protect.
 2. Second plea in law, alleging infringement of the judgment of the Court of Justice of 19 December 2019 (C-502/19, *Junqueras i Vies*) and the right to the protection of immunity in accordance with Article 39 CFREU, Article 9 of the Protocol on the privileges and immunities of the European Union, and Articles 7 and 9 of the Rules of Procedure.
 - In that regard the applicant claims that, in the judgment cited, the Court of Justice recognised the applicant's status as a Member of Parliament and held that an application requesting the European Parliament to waive that immunity should have been lodged. The Court also held that, since the European Parliament itself had granted the applicant the status of MEP, in the present case, that judgment had been disregarded and, that by refusing to rule on the petition for protection of immunity in accordance with the articles cited, the rights enjoyed by Mr Junqueras as an MEP had been infringed.
 3. Third plea in law, alleging infringement of Articles 7 and 9 of the Rules of Procedure of the European Parliament on the grounds that the President of the Parliament lacked competence to decide on the admissibility of the request for protection of immunity, and the failure to follow the established procedure in that regard.
 - The applicant claims, in that respect, that the President lacked competence to adopt a decision that the request for the protection of immunity was inadmissible and that he infringed Articles 7 and 9 of the Rules of Procedure of the European Parliament by failing to follow established procedure in that regard.
 4. Fourth plea in law, alleging infringement of Article 39 CFREU, Article 9 of the Protocol on the privileges and immunities of the European Union in its entirety and Articles 7 and 9 of the Rules of Procedure of the European Parliament.
 - The applicant submits in that regard that, by failing to protect the immunity of Mr Junqueras and failing to require the European Parliament to rule on a petition for protection of immunity, the right to immunity granted by Article 9 of the Protocol on Privileges and Immunities of the European Union has been infringed in its entirety.
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