

4. Fourth plea in law, alleging that the Commission representative confirmed that the Polish administration is in line with EU law and with the OP IE.

— According to the applicant, it is clear that the Commission agreed to all the set requirements and that it accepted the OP IE and the concrete implementation.

5. Fifth plea in law, alleging that the Commission infringes the division of competences between the Commission and the Polish administration and infringes the principle of subsidiarity and proportionality.

— The applicant puts forward that the Commission is not entitled to decline national support on grounds that are for the Polish administration to decide — because of the latter's close experience with the area. According to the applicant, the Commission is furthermore not entitled to decline on grounds that were known to it at the time of JYSK application. The 'Scoreboard' (Submeasure 4.5.2.) allegedly expresses exactly the goals and purposes in the OP IE and both were known to the Commission representative in the Monitoring Committee at the time of the JYSK application. The correct understanding/interpretation of the OP IE, so the applicant claims, shall take into account the specific knowledge of the Polish administration concerning work places and skills of workers in Radomsko, and it is not for the Commission to override in all details the assessment of the Polish administration when implementing the program, nor is it correct to consider any intention or 'goal' of the OP IE to be decisive as the Commission does. According to the applicant, the correct understanding of the OP IE and EU law shall be based upon the fact that some of the provisions are of greater importance than others — illustrated in the scoreboard (Submeasure 4.5.2.).

6. Sixth plea in law, alleging the arguments of the Commission.

— The applicant puts forward that none of the three main arguments were in force and/or decisive in the sense the Commission claims and within the understanding that the Commission refers to at the time of JYSK application (July 2008). According to the applicant, they can therefore not be relevant in this case and, to the extent the court finds them relevant, they were not decisive.

**Action brought on 27 July 2015 — Monster Energy v OHIM — Hot-Can Intellectual Property
(HotoGo self-heating can technology)**

(Case T-407/15)

(2015/C 311/64)

Language in which the application was lodged: English

Parties

Applicant: Monster Energy Company (Corona, United States) (represented by: P. Brownlow, Solicitor)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

Other party to the proceedings before the Board of Appeal: Hot-Can Intellectual Property Sdn Bhd (Cheras, Malaysia)

Details of the proceedings before OHIM

Applicant: Other party to the proceedings before the Board of Appeal

Trade mark at issue: Figurative mark containing the word elements 'HotoGo self-heating can technology' — Application for registration No 11 418 101

Procedure before OHIM: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of OHIM of 4 May 2015 in Case R 1028/2014-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- annul the decision of the Opposition Division of 21 February 2014 in Opposition No B2178567;
- reject the opposed mark in its entirety;
- order OHIM to pay its own costs and those of the applicant.

Pleas in law

- Infringement of Articles 8(1)(b) of Regulation No 207/2009;
- Infringement of Article 8(5) of Regulation No 207/2009.

Order of the General Court of 12 June 2015 — Matrix Energetics International v OHIM (MATRIX ENERGETICS)

(Case T-573/12) ⁽¹⁾

(2015/C 311/65)

Language of the case: English

The President of the Sixth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 63, 2.3.2013.

Order of the General Court of 29 June 2015 — InterMune UK and Others v EMA

(Case T-73/13) ⁽¹⁾

(2015/C 311/66)

Language of the case: English

The President of the Fourth Chamber has ordered that the case be removed from the register.

⁽¹⁾ OJ C 114, 20.4.2013.
