

Action brought on 5 September 2022 — Laboratorios Ern v EUIPO — BRM Extremities (BIOPLAN)**(Case T-543/22)**

(2022/C 408/53)

*Language in which the application was lodged: English***Parties***Applicant:* Laboratorios Ern, SA (Barcelona, Spain) (represented by: S. Correa Rodríguez, lawyer)*Defendant:* European Union Intellectual Property Office (EUIPO)*Other party to the proceedings before the Board of Appeal:* BRM Extremities Srl (Milan, Italy)**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 BIOPLAN — Application for registration No 18 095 065*Procedure before EUIPO:* Opposition proceedings*Contested decision:* Decision of the Fifth Board of Appeal of EUIPO of 6 June 2022 in Case R 2147/2021-5**Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO and to BRM Extremities Srl, in case BRM Extremities Srl decides to intervene in the present proceedings, to pay the costs.

Plea in law

- Infringement of Article 8(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

Action brought on 6 September 2022 — Prolactal v EUIPO — Prolàctea (PROLACTAL)**(Case T-549/22)**

(2022/C 408/54)

*Language in which the application was lodged: English***Parties***Applicant:* Prolactal GmbH (Hartberg, Austria) (represented by: H. Roerdink and S. Janssen, lawyers)*Defendant:* European Union Intellectual Property Office (EUIPO)*Other party to the proceedings before the Board of Appeal:* Prolàctea, SAU (Castrogonzalo, Spain)**Details of the proceedings before EUIPO***Proprietor of the trade mark at issue:* Applicant before the General Court*Trade mark at issue:* International registration designating the European Union in respect of the mark PROLACTAL — International registration designating the European Union No 1 475 897

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 10 June 2022 in Case R 752/2021-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision insofar as it relates to Prolactal;
- order EUIPO to pay the costs of the proceedings.

Pleas in law

- Infringement of Article 27(4) of Commission Delegated Regulation (EU) 2018/625;
- Infringement of the principles of the protection of legitimate expectations and legal certainty, on the ground that the EUIPO's decision that the requests for proof of use filed by Prolactal do not comply with the requirements of Article 10 (1) EUTMDR, and are thus inadmissible, is not proportional to the consequences thereof;
- Infringement of Article 7(1)(c) of Regulation (EU) 2017/1001 of the European Parliament and of the Council;
- Infringement of Article 94 of Regulation (EU) 2017/1001 of the European Parliament and of the Council and of Article 41(2) of the Charter of Fundamental Rights of the European Union;
- Infringement of the principles of the protection of legitimate expectations and legal certainty as the burden of proof imposed by EUIPO went beyond the scope of what could be expected from the applicant to provide as evidence for coexistence;
- Infringement of relevant case-law with regard to the overall assessment of the likelihood of confusion.

Action brought on 7 September 2022 — mataharispaclub v EUIPO — Rouha (SpaClubMatahari)
(Case T-552/22)
(2022/C 408/55)

Language in which the application was lodged: Czech

Parties

Applicant: mataharispaclub s.r.o. (Mníšek pod Brdy, Czech Republic) (represented by: M. Diamant, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Alena Rouha (Prague, Czech Republic)

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: EU word mark 'SpaClubMatahari' — EU trade mark No 17 642 661

Proceedings before EUIPO: Invalidity proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 30 June 2022 in Case R 937/2021-4