

GENERAL COURT

Judgment of the General Court of 6 April 2022 — Cilem Records International v EUIPO — KVZ Music (HALIX RECORDS)

(Case T-118/21) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for EU word mark HALIX RECORDS — Earlier national word and figurative marks HALIX RECORDS — Relative ground for refusal — Article 8(4) of Regulation (EC) No 207/2009 (now Article 8(4) of Regulation (EU) 2017/1001) — Rule 19(1) and (2) of Regulation (EC) No 2868/95 (now Article 7(1) and (2) of Delegated Regulation (EU) 2018/625))

(2022/C 222/45)

Language of the case: German

Parties

Applicant: Cilem Records International UG (Augsburg, Germany) (represented by: E. Hecht, lawyer)

Defendant: European Union Intellectual Property Office (represented by: M. Eberl and D. Hanf, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: KVZ Music Ltd (Sofia, Bulgaria) (represented by: D. Stechern, lawyer)

Re:

Action brought against the decision of the Fourth Board of Appeal of EUIPO of 28 January 2021 (Case R 1060/2020-4), relating to opposition proceedings between Cilem Records International and KVZ Music.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Cilem Records International UG to bear its own costs and to pay those incurred by EUIPO;
3. Orders KVZ Music Ltd to bear its own costs.

⁽¹⁾ OJ C 128, 12.4.2021.

Judgment of the General Court of 6 April 2022 — Biogena v EUIPO — Alter Farmacia (NUTRIFEM AGNUBALANCE)

(Case T-370/21) ⁽¹⁾

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark NUTRIFEM AGNUBALANCE — Earlier EU word mark NUTRIBEN — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EU) 2017/1001)

(2022/C 222/46)

Language of the case: English

Parties

Applicant: Biogena GmbH & Co KG (Salzburg, Austria) (represented by: I. Schiffer, lawyer)

Defendant: European Union Intellectual Property Office (represented by: J.F. Crespo Carrillo, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO: Alter Farmacia, SA (Madrid, Spain)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 22 April 2021 (Case R 1208/2020-5), relating to opposition proceedings between Alter Farmacia and Biogena.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fifth Board of Appeal of EUIPO of 22 April 2021 (Case R 1208/2020-5) in so far as it concerns the goods in Class 5 of the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks of 15 June 1957, as revised and amended, and the 'dried kitchen herbs; preserved herbs and spices' in Class 30 thereof;
2. Dismisses the action as to the remainder;
3. Orders each party to bear its own costs.

⁽¹⁾ OJ C 329, 16.8.2021.

Order of the General Court of 25 March 2022 — Saure v Commission

(Case T-151/21) ⁽¹⁾

(Action for annulment — Access to documents — Regulation (EC) No 1049/2001 — Commission correspondence concerning the quantity and delivery timings of BioNTech SE COVID-19 vaccines — Initial refusal — Act not open to challenge — Application to modify the form of order sought — Assessing the admissibility of an action at the time it was brought — Manifest inadmissibility)

(2022/C 222/47)

Language of the case: German

Parties

Applicant: Hans-Wilhelm Saure (Berlin, Germany) (represented by: C. Partsch, lawyer)

Defendant: European Commission (represented by: A. Spina, K. Herrmann and G. Gattinara, agents)

Re:

By its action based on Article 263 TFEU, the applicant seeks to have set aside the letter of the European Commission of 27 January 2021 rejecting an initial application for access to certain documents.

Operative part of the order

1. The action is dismissed as being manifestly inadmissible.
2. M. Hans-Wilhelm Saure shall bear his own costs and pay those incurred by the European Commission and those relating to the requests to modify the application and the European Commission shall bear its own costs related to the application.

⁽¹⁾ OJ C 189, 17.5.2021.