

Judgment of the General Court of 24 January 2019 — İlhan v EUIPO — Time Gate (BIG SAM SPORTSWEAR COMPANY)

(Case T-785/17) ⁽¹⁾

(EU trade mark — Invalidity proceedings — International registration designating the European Union — Figurative mark BIG SAM SPORTSWEAR COMPANY — Earlier word mark SAM — Relative ground for refusal — Extinction of rights due to acquiescence — Evidence presented for the first time before the General Court — Article 54(2) of Regulation (EC) No 207/2009 (now Article 61(2) of Regulation (EU) 2017/1001) — Likelihood of confusion — Article 8(1)(b) of Regulation No 207/2009 (now Article 8(1)(b) of Regulation 2017/1001))

(2019/C 103/46)

Language of the case: English

Parties

Applicant: Ercan İlhan (Istanbul, Turkey) (represented by: S. Can, lawyer)

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

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Time Gate GmbH (Cologne, Germany) (represented by: R. Kunz-Hallstein, lawyer)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 13 September 2017 (Case R 974/2016-5) relating to invalidity proceedings between Time Gate and Mr İlhan.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Mr Ercan İlhan to pay the costs.

⁽¹⁾ OJ C 32, 29.1.2018.

Judgment of the General Court of 7 February 2019 — TecAlliance v EUIPO — Siemens (TecDocPower)

(Case T-789/17) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for the EU word mark TecDocPower — Earlier EU word and figurative marks TECDOC and TecDoc — Relative ground for refusal — Similarity of goods and services — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Genuine use of earlier marks — Article 42(2) and (3) of Regulation No 207/2009 (now Article 47(2) and (3) of Regulation 2017/1001))

(2019/C 103/47)

Language of the case: German

Parties

Applicant: TecAlliance GmbH (Ismaning, Germany) (represented by P. Engemann, lawyer)

Defendant: European Union Intellectual Property Office (represented by S. Hanne, acting as Agent)

Other party to the proceedings before the Board of Appeal of EUIPO, intervener before the General Court: Siemens AG (Munich, Germany) (represented by V. von Bomhard and J. Fuhrmann, lawyers)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 14 September 2017 (Case R 2433/2016-1) relating to opposition proceedings between TecAlliance and Siemens

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders TecAlliance GmbH to pay the costs.

⁽¹⁾ OJ C 42, 5.2.2018.

Judgment of the General Court of 24 January 2019 — Brown Street Holdings v EUIPO — Enesan (FIGHT LIFE)

(Case T-800/17) ⁽¹⁾

(EU trade mark — Opposition proceedings — International registration designating the European Union — Word mark FIGHT LIFE — Earlier EU word mark FIGHT FOR LIFE — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001) — Obligation to state reasons — Article 75 of Regulation No 207/2009 (now Article 94 of Regulation 2017/1001))

(2019/C 103/48)

Language of the case: German

Parties

Applicant: Brown Street Holdings Ltd (Auckland, New Zealand) (represented by: initially C. Hufnagel, M. Kleespies, J. Clayton-Chen and A. Bender, and subsequently M. Kleespies and A. Bender, lawyers)

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

Other party to the proceedings before the Board of Appeal of EUIPO: Enesan AG (Zurich, Switzerland)

Re:

Action brought against the decision of the Second Board of Appeal of EUIPO of 26 September 2017 (Case R 36/2017-2) relating to opposition proceedings between Brown Street Holdings and Enesan.

Operative part of the judgment

The Court:

1. Annuls the decision of the Second Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 26 September 2017 (Case R 36/2017-2) in so far as it rejected the opposition against the application for registration of the mark applied for in respect of 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;