

Decision in the case 1515/2022/NH on the European Union Intellectual Property Office (EUIPO)'s decision to reject a request for reimbursement of expenses incurred when registering a trademark

Decision

Case 1515/2022/NH - Opened on 05/09/2022 - Decision on 05/09/2022 - Institution concerned European Union Intellectual Property Office (No maladministration found) |

Dear Sir or Madam,

You recently submitted a complaint to the European Ombudsman against the European Union Intellectual Property Office (EUIPO) concerning the above issue.

After a careful analysis of all the information you provided with your complaint, we have decided to close the inquiry with the following conclusion:

There was no maladministration by the EUIPO in this case.

We understand from your complaint that you are dissatisfied with the decision by the EUIPO to reject your request for reimbursement of the application fee of EUR 850 that you paid when you applied for a trademark.

You made that request under the “SME Fund 2022” initiative offered by the EUIPO, which provides financial support to SMEs in the form of “vouchers” that can be used to reimburse costs related to intellectual property rights. One of the conditions for using the vouchers to reimburse costs is that the cost in question must have been incurred after obtaining the voucher.

We note that the EUIPO has provided clear information about this requirement on several occasions during the application procedure:

1. Article 1.7 of the Call for Proposals N° GR/001/22 [1] lays down that “ *Vouchers are not retroactive, costs for activities executed before getting the voucher cannot be reimbursed .*”
2. The “Frequently Asked Questions” section [2] on the SME Fund website says that:



Can I be reimbursed for a trade mark, design, or patent that has already been registered?

No, your SME must first apply for a grant and wait for the EUIPO to respond with a grant decision.

Can I apply for a trade mark, design, or patent registration before I receive the grant decision?

No, you have to wait to receive a successful grant decision and your voucher or vouchers. SMEs have to wait for a successful grant decision before starting an IP activity. If an IP activity starts before the notification of a successful grant decision, no fee will be reimbursed (including subsequent fees).

3. In the acknowledgement of receipt for your voucher application, received on 4 July 2022, the EUIPO informed you that: “ *Remember to wait for the grant decision result **before** applying for any intellectual property (IP) activities. Only those IP activities requested **after the grant has been notified** will be reimbursed .*”

It is unfortunate that you believed that you could use the voucher, obtained under the SME Fund 2022, to have trademark application fees incurred before you applied for the voucher reimbursed. Nevertheless, there is nothing in your complaint which would show that the EUIPO failed to respect the rules for its SME Fund 2022.

We have therefore closed the case.

I appreciate this may not be your desired outcome but I hope you find these explanations useful. Thank you for having contacted the European Ombudsman.

Yours sincerely,

Tina Nilsson Head of the Case-handling Unit

Strasbourg, 05/09/2022

[1]

https://euipo.europa.eu/tunnel-web/secure/webdav/guest/document_library/contentPdfs/about_euipo/Grants/GR_00
[Link]

[2] <https://euipo.europa.eu/ohimportal/en/help-sme-fund-2022> [Link]