

2. Second plea in law, alleging infringement of the obligation to state reasons in accordance with Article 296 TFEU

Furthermore the applicant submits that there is infringement of the obligation to state reasons pursuant to Article 296 TFEU because the Commission was satisfied with sweeping assumptions and deductions, but did not explain why the loan conditions were not market conditions and why it was suddenly departing from its previous decision-making practice.

3. Third plea in law, alleging infringement of the principle of the rights of the defence in its various forms

The applicant further submits that there is infringement of the principle of the rights of the defence in its various forms as the Commission did not discuss the change in its view with the Federal Government before the adoption of the contested decision.

⁽¹⁾ Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid (OJ 2006 L 379, p. 5).

Action brought on 26 September 2011 — Aldi v OHIM — Dialcos (dialdi)

(Case T-505/11)

(2011/C 355/38)

Language in which the application was lodged: German

Parties

Applicant: Aldi GmbH & Co. KG (Mülheim an der Ruhr, Germany) (represented by: N. Lützenrath, U. Rademacher, L. Kolks and C. Fürsen, lawyers)

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

Other party to the proceedings before the Board of Appeal: Dialcos SpA (Due Carrare, Italy)

Form of order sought

— Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 5 July 2011 in Case R 1097/2010-2;

— Order OHIM to pay the costs.

Pleas in law and main arguments

Applicant for a Community trade mark: Dialcos SpA

Community trade mark concerned: Figurative mark containing the word element 'dialdi' for goods in Classes 29 and 30.

Proprietor of the mark or sign cited in the opposition proceedings: The applicant.

Mark or sign cited in opposition: Word mark 'ALDI' for goods and services in Classes 3, 4, 7, 9, 16, 24, 25, 29, 30, 31, 32, 33, 34 and 36.

Decision of the Opposition Division: Rejection of the opposition.

Decision of the Board of Appeal: Dismissal of the appeal.

Pleas in law: Infringement of Article 8(1)(b) of Regulation No 207/2009, since there is a likelihood of confusion between the marks at issue.

Action brought on 28 September 2011 — i-content v OHIM — Decathlon (BETWIN)

(Case T-514/11)

(2011/C 355/39)

Language in which the application was lodged: English

Parties

Applicant: i-content Ltd Zweigniederlassung Deutschland (Berlin, Germany) (represented by: A. Nordemann, lawyer)

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

Other party to the proceedings before the Board of Appeal: Decathlon SA (Villeneuve d'Ascq, France)

Form of order sought

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 30 June 2011 in case R 1816/2010-1, and reject the opposition No B 001494205;

— Order the defendant to bear the costs of the proceedings.

Pleas in law and main arguments

Applicant for a Community trade mark: The applicant

Community trade mark concerned: The word mark 'BETWIN', among others for goods in classes 25, 26 and 28 — Community trade mark application No 7281652

Proprietor of the mark or sign cited in the opposition proceedings: The other party to the proceedings before the Board of Appeal

Mark or sign cited in opposition: Community trade mark registration No 6780951, of the figurative mark 'bTwin', among others for goods in classes 25 and 28; French trade mark registration No 23191414, of the figurative mark 'bTwin', inter alia for goods in class 25; French trade mark registration No 99822017, of the figurative mark 'bTwin', inter alia for goods in class 28