

Action brought on 31 May 2017 — Hotelbeds Spain v EUIPO — Guidigo Europe (Guidigo what to do next)

(Case T-346/17)

(2017/C 239/78)

Language in which the application was lodged: English

Parties

Applicant: Hotelbeds Spain, SL (Palma de Mallorca, Spain) (represented by: L. Broschat García, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Guidigo Europe SARL (Paris, France)

Details of the proceedings before EUIPO

Applicant: Applicant

Trade mark at issue: EU figurative mark containing the words elements ‘Guidigo what to do next’ — Application for registration No 12 944 898

Procedure before EUIPO: Opposition proceedings

Contested decision: Decision of the Fourth Board of Appeal of EUIPO of 21 March 2017 in Case R 449/2016-4

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- grant the European Union trade mark application No 12 944 898, in classes 39, 41 and 43.

Plea in law

- Infringement of Article 8(1)(b) of Regulation No 207/2009.

Action brought on 1 June 2017 — Singapore Airlines and Singapore Airlines Cargo v Commission

(Case T-350/17)

(2017/C 239/79)

Language of the case: English

Parties

Applicants: Singapore Airlines Ltd (Singapore, Singapore) and Singapore Airlines Cargo Pte Ltd (Singapore) (represented by: J. Kallaughner and J. Poitras, Solicitors and J. Ruiz Calzado, lawyer)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul Commission Decision C(2017) 1742 final of 17 March 2017 relating to a proceeding under Article 101 TFEU, Article 53 of the EEA Agreement and Article 8 of the Agreement between the European Community and the Swiss Confederation on Air Transport (Case AT.39258 — Airfreight), in whole or in part;
- further, or in the alternative, substantially reduce the amount of the fine imposed on the applicants;
- order the Commission to pay the costs; and

— make any other order as may be appropriate in the circumstances of the case.

Pleas in law and main arguments

In support of the action, the applicant relies on six pleas in law.

1. First plea in law, alleging that the contested decision should be annulled because its central finding of a single and continuous infringement covering air cargo services on all routes to and from the EU is vitiated by serious errors of law and factual appreciation.

According to the applicants, the contested decision fails to establish in particular: (i) the existence of a worldwide cartel; (ii) jurisdiction over conduct involving air cargo sales outside the EU; (iii) application of Article 101 TFEU to conduct regulated or required by foreign governments; (iv) a sufficient link between conduct involving the three alleged elements of the single and continuous infringement, being fuel surcharges, security surcharges, and alleged refusal to pay commissions on surcharges; and (v) a sufficient link between airline contacts at headquarters level and conduct in local markets.

2. Second plea in law, alleging that the contested decision should be annulled insofar as it finds an infringement related to coordination regarding payment of commission to forwarders on surcharge revenue.
3. Third plea in law, alleging that the contested decision should be annulled to the extent that the finding on an infringement involving the applicants relies on evidence involving contacts exclusively between members of the WOW air cargo alliance.

According to the applicants, the contested decision applies the incorrect legal test to assessing a full cooperation airline alliance and makes fundamental errors in assessing how the WOW alliance functioned. The applicants further submit that their contacts with WOW partners were part of a genuine effort to create a successful alliance and therefore were not manifestations of the common scheme or plan that was the supposed basis for the single and continuous infringement.

4. Fourth plea in law, alleging that the contested decision should be annulled because it fails to establish participation by the applicants in the single and continuous infringement.
5. Fifth plea in law, alleging that if (contrary to the arguments set out in the fourth plea), the applicants participated in some aspects of the single and continuous infringement, the contested decision does not establish that the applicants were aware of all other aspects of conduct described in the contested decision, notably the clearly unlawful core group coordination, or that it should have been aware of such conduct as required by the case law.
6. Sixth plea in law, alleging that, if the contested decision is not annulled in full, the fine against the applicants should be reduced because the Commission has failed to follow the clear requirements of the Fining Guidelines⁽¹⁾ for identifying the relevant turnover, and because the fine imposed does not reflect the applicants limited participation in the single and continuous infringement and lesser gravity of the applicants' conduct (as shown in the third, fourth and fifth pleas).

⁽¹⁾ Guidelines on the method of setting fines imposed pursuant to Article 32(2)(a) of Regulation No 1/2003 (OJ 2006, C 210, p. 2).

Action brought on 2 June 2017 — Korwin-Mikke v Parliament

(Case T-352/17)

(2017/C 239/80)

Language of the case: French

Parties

Applicant: Janusz Korwin-Mikke (Jozefow, Poland) (represented by: M. Cherchi, A. Daoût and M. Dekleermaker, lawyers)

Defendant: European Parliament