

4. Fourth plea in law, alleging that the Commission infringed Article 13(4) and (5) of Directive 2010/75/EU, read in conjunction with Article 3(12) of that directive and Article 291(2) TFEU, by exceeding the entitlements which it is acknowledged as having in Article 13(5) of Directive 2010/75/EU, as a result of introducing derogations from the application of the BAT conclusions by means of the contested decision rather than by means of an amendment to Directive 2010/75/EU.
5. Fifth plea in law, alleging that the Commission infringed Article 3(3) and (4) of Regulation No 182/2011, misused its powers, and infringed the principles of sound administration by introducing, without allowing for prior discussion, significant amendments to the draft of the contested decision on the day of the vote by the Committee referred to in Article 75 of Directive 2010/75/EU as to its opinion on that draft.

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**Action brought on 11 October 2017 — Hermann Biederlack v EUIPO (Feeling home)**

(Case T-715/17)

(2017/C 412/55)

*Language of the case: German*

**Parties**

*Applicant:* Hermann Biederlack GmbH & Co. KG (Greven, Germany) (represented by: T. Seifried, lawyer)

*Defendant:* European Union Intellectual Property Office (EUIPO)

**Details of the proceedings before EUIPO**

*Trade mark at issue:* EU word mark 'Feeling home' — Application for registration No 15 452 931

*Contested decision:* Decision of the Fifth Board of Appeal of EUIPO of 14 June 2017 in Case R 252/2017-5

**Form of order sought**

The applicant claims that the Court should:

— annul the contested decision;

— order EUIPO to pay the costs.

**Plea in law**

— Infringement of Article 7(1)(b) of Regulation No 207/2009.

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**Action brought on 18 October 2017 — Germanwings v Commission**

(Case T-716/17)

(2017/C 412/56)

*Language of the case: German*

**Parties**

*Applicant:* Germanwings GmbH (Cologne, Germany) (represented by: A. Martin-Ehlers, lawyer)

*Defendant:* European Commission

**Form of order sought**

The applicant claims that the Court should:

- annul the decision of the European Commission of 29 July 2016 <sup>(1)</sup> in Case SA.33983 (ex 2012/NN) (ex 2011/NN) — Compensation to Sardinian airports for public service obligations (services of a general economic interest — SGEI) and, specifically:
  - Article 1(2), in so far as it refers to Germanwings GmbH; and
  - Article 2(1), in so far as the repayment claimed therein relates to Germanwings GmbH; and
- order the defendant to pay the costs of the proceedings.

**Pleas in law and main arguments**

In support of the action, the applicant relies on two pleas in law:

1. First plea in law, alleging that there is no aid element

The defendant has neither shown nor proved that the payment made to the applicant contained aid. Consequently, the defendant departs significantly from the case-law and from its own decision-making practice.

2. Second plea in law, alleging that, if it is established that aid is involved, that aid would neither interfere with trade between Member States nor distort competition.

The defendant has provided an inadequate statement of reasons for its claim that the alleged aid affects trade between Member States and competition. In the alternative, the applicant argues that it would be *de minimis* aid within the meaning of Article 2(1) of Regulation (EC) No 1998/2006. <sup>(2)</sup>

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<sup>(1)</sup> Commission Decision (EU) 2017/1861 of 29 July 2016 on State aid SA33983 (2013/C) (ex 2012/NN) (ex 2011/N) — Italy — Compensation to Sardinian airports for public service obligations (SGEI) (notified under document C(2016) 4862) (OJ 2017 L 268, p. 1).

<sup>(2)</sup> Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to *de minimis* aid (OJ 2006 L 379, p. 5).

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**Order of the General Court of 16 October 2017 — Falmouth University v Commission**

(Case T-227/17) <sup>(1)</sup>

(2017/C 412/57)

*Language of the case: English*

The President of the Eighth Chamber has ordered that the case be removed from the register.

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<sup>(1)</sup> OJ C 221, 10.7.2017.

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