

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

*Other party to the proceedings before the Board of Appeal:* Bikor Elżbieta Korbut (Gdańsk, Poland) and Bikor Professional Color Cosmetics Małgorzata Wedekind (Gdańsk)

### **Details of the proceedings before EUIPO**

*Proprietor of the trade mark at issue:* Other party to the proceedings before the Board of Appeal

*Trade mark at issue:* Application for European Union word mark BIKOR EGYPTIAN EARTH — European Union trade mark No 9 561 788

*Procedure before EUIPO:* Cancellation proceedings

*Contested decision:* Decision of the First Board of Appeal of EUIPO of 24 April 2018 in Case R 1826/2015-1

### **Form of order sought**

The applicant claims that the Court should:

- annul the contested decision;
- declare that the costs in this proceedings shall be borne by the Defendant, including all the costs which the Applicant has incurred before both the Cancellation Division and the First Board of Appeal of EUIPO that have resulted in the present Application.

### **Plea in law**

- Infringement of Article 59(1)(b) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.

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## **Action brought on 18 July 2018 — Ryanair and Others v Commission**

**(Case T-448/18)**

(2018/C 319/29)

*Language of the case: English*

### **Parties**

*Applicants:* Ryanair DAC (Swords, Ireland), Airport Marketing Services Ltd (Dublin, Ireland) and FR Financing (Malta) Ltd (Douglas, Isle of Man) (represented by: E. Vahida and I. Metaxas-Maranghidis, lawyers, and B. Byrne, solicitor)

*Defendant:* European Commission

### **Form of order sought**

- annul Articles 5 and 6 of European Commission decision (EU) 2018/628 of 11 November 2016 on State aid SA.24221 (2011/C) (ex 2011/NN) implemented by Austria for the Klagenfurt airport, Ryanair and other airlines using the airport (OJ 2018 L 107, p. 1), and Articles 9, 10 and 11 of the said decision insofar as they concern the applicants;
- order the defendant to bear the costs.

### Pleas in law and main arguments

In support of the action, the applicants rely on six pleas in law.

1. First plea in law, alleging that the contested decision violates the provisions on limitation periods of Article 15 of Regulation (EC) No 659/1999 laying down detailed rules for the application of Article 93 of the EC Treaty,<sup>(1)</sup> and Article 17 of Regulation (EU) 2015/1589 laying down detailed rules for the application of Article 108 of the TFEU,<sup>(2)</sup> and fails to state reasons, as the limitation period of ten years applied to two agreements from 2002 which were nevertheless addressed in the decision.
2. Second plea in law, alleging that the contested decision violates Article 41 of the Charter of Fundamental Rights of the European Union, the principle of good administration, and the applicants' rights of defence, as the Commission failed to allow the applicants to access the file of the investigation and to put them in a position where they could effectively make known their views.
3. Third plea in law, alleging that the contested decision violates Article 107(1) TFEU because the Commission erroneously imputed the conclusion of the agreements with the applicants to the State.
4. Fourth plea in law, alleging that the contested decision violates Article 107(1) TFEU, because the Commission has failed to establish selectivity.
5. Fifth plea in law, alleging a breach of Article 107(1) TFEU because the Commission erroneously concluded that the arrangements between the airport and the applicants conferred an advantage on the applicants. The Commission erroneously dismissed the possibility that part of the marketing services may have been purchased for general interest purposes, erroneously refused to accept the comparator analysis proposed by the applicants, committed manifest errors of assessment and failed to state reasons in its profitability analysis, by basing its conclusions on incomplete, unreliable and inappropriate data; it also failed to attribute an appropriate value to the services provided under the marketing services agreements, wrongly dismissed the rationale behind the airport's decision to purchase marketing services and wrongly disregarded the wider benefits of Ryanair's operations for the airport.
6. Sixth plea in law, alleging, on a subsidiary basis, a breach of Articles 107(1) and 108(2) TFEU in that the Commission committed a manifest error of assessment and an error of law in its determination of the quantum of recoverable aid, in its instructions to the Member State implying that the adjustment of the quantum of recoverable aid is optional, and because of a contradiction between the grounds of the contested decision and its operative part.

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<sup>(1)</sup> Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty (OJ 1999 L 83, p. 1).

<sup>(2)</sup> Council Regulation (EU) 2015/1589 of 13 July 2015 laying down detailed rules for the application of Article 108 on the Treaty on the Functioning of the European Union (OJ 2015 L 248, p. 9).

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### Action brought on 27 July 2018 — Multifit v EUIPO (real nature)

(Case T-458/18)

(2018/C 319/30)

*Language in which the application was lodged: German*

### Parties

*Applicant:* Multifit Tiernahrungs GmbH (Krefeld, Germany) (represented by: N. Weber and P. Gentili, lawyers)

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