

3. Third plea in law, alleging infringement of the principle of equal treatment and non-discrimination, and failure to have due regard to the principle of sound administration and the duty to have regard for the welfare of officials.
4. Fourth plea in law, alleging infringement of Article 85 of the Staff Regulations regarding recovery of overpayments.

Finally, the applicants seek compensation for the non-material and material damage which they claim to have suffered as a result of the contested decisions.

Action brought on 5 February 2021 — Masterbuilders, Heiermann, Schmidtman v EUIPO — Cirillo (POMODORO)

(Case T-76/21)

(2021/C 110/38)

Language of the case: English

Parties

Applicant: Masterbuilders, Heiermann, Schmidtman GbR (Tübingen, Germany) (represented by: H. Hillers, lawyer)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Francesco Cirillo (Berlin, Germany)

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: European Union word mark POMODORO — European Union trade mark No 10 926 152

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 30 November 2020 in Case R 715/2020-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- reject the European Union trade mark (EUTM) proprietor's appeal of 17 April 2020 in its entirety;
- order EUIPO to pay the costs.

Pleas in law

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

- First plea in law, alleging that the defendant was not allowed to take into account the EUTM proprietor's statement of grounds and evidence for his appeal because the EUTM proprietor did not file his statement of grounds within the non-extendable time-limit of four months;
- Second plea in law, alleging that the new evidence is inadmissible according to Article 27(4) of the Commission Delegated Regulation (EU) 2017/1430;

— Third plea in law, alleging that the statement of grounds and the new evidence did not establish proof of genuine use.

Action brought on 3 February 2021 — Ryanair and AMS v Commission

(Case T-79/21)

(2021/C 110/39)

Language of the case: English

Parties

Applicants: Ryanair DAC (Swords, Ireland), Airport Marketing Services Ltd (AMS) (Dublin, Ireland) (represented by: E. Vahida, F.-C. Laprévote, V. Blanc, S. Rating, and I. Metaxas-Maranghidis, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the defendant's decision (EU) of 2 August 2019 on State aid SA.47867 2018/C (ex 2017/FC) granted by France to Ryanair and Airport Marketing Services; ⁽¹⁾ and
- order the defendant to pay 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 defendant violated Articles 41 and 47 of the EU Charter of Fundamental Rights, the principle of good administration and the applicants' rights of defense.
2. Second plea in law, alleging that the defendant violated Article 107(1) TFEU and the obligation to state reasons by stating, in a *corrigendum* to the contested decision, that the market economy operator test was inapplicable after having found it applicable in a previous decision.
3. Third plea in law, alleging that the defendant violated Article 107(1) TFEU because the application in the contested decision of the 'real need' test was flawed.
4. Fourth plea in law, alleging that the defendant violated Article 107(1) TFEU because it erroneously disregards the Montpellier region and the airport's need for the marketing services.
5. Fifth plea in law, alleging that the defendant violated Article 107(1) TFEU because it failed to identify Montpellier airport as a beneficiary of aid.
6. Sixth plea in law, alleging that the defendant violated Article 107(1) TFEU because it failed to show selectivity.

⁽¹⁾ OJ 2020 L 388, p. 1.

Action brought on 9 February 2021 — Jieyang Defa Industry v EUIPO — Mattel (Dolls' head)

(Case T-84/21)

(2021/C 110/40)

Language of the case: English

Parties

Applicant: Jieyang Defa Industry Co. Ltd (Jiedong, China) (represented by: C. Bercial Arias, lawyer)