

Pleas in law and main arguments

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

1. First plea in law, alleging the defendant misused its powers and misapplied Article 107(2)(b) TFEU by prioritising the review of the aid and freezing its investigations of unlawful rescue aid granted to Alitalia in 2017 and 2019.
2. Second plea in law, alleging the defendant misapplied Article 107(2)(b) TFEU and committed manifest errors of assessment in its review of the proportionality of the aid to the damage caused by the COVID-19 crisis.
3. Third plea in law, alleging the defendant violated specific provisions of the TFEU and the general principles of European law that have underpinned the liberalisation of air transport in the EU since the late 1980s (*i.e.*, non-discrimination, the free provision of services — applied to air transport through Regulation 1008/2008 ⁽²⁾ — and free establishment).
4. Fourth plea in law, alleging that the defendant failed to initiate a formal investigation procedure despite serious difficulties and violated the applicant's procedural rights.
5. Fifth plea in law, alleging that the defendant violated its duty to state reasons.

⁽¹⁾ OJ 2021 C 41, p. 6

⁽²⁾ Regulation (EC) No 1008/2008 of the European Parliament and of the Council of 24 September 2008 on common rules for the operation of air services in the Community (Recast) (Text with EEA relevance) (OJ 2008 L 293, p. 3–20).

Action brought on 27 April 2021 — Retail Royalty v EUIPO — Fashion Energy (Device of an eagle)

(Case T-226/21)

(2021/C 228/54)

Language of the case: English

Parties

Applicant: Retail Royalty Co. (Las Vegas, Nevada, United States) (represented by: J. Bogatz and Y. Stone, lawyers)

Defendant: European Union Intellectual Property Office (EUIPO)

Other party to the proceedings before the Board of Appeal: Fashion Energy Srl (Milano, Italy)

Details of the proceedings before EUIPO

Proprietor of the trade mark at issue: Applicant before the General Court

Trade mark at issue: European Union figurative mark (Device of an eagle) — European Union trade mark No 5 066 113

Procedure before EUIPO: Cancellation proceedings

Contested decision: Decision of the Fifth Board of Appeal of EUIPO of 10 February 2021 in Case R 2813/2019-5

Form of order sought

The applicant claims that the Court should:

- annul the contested decision;
- order EUIPO and the other party to the proceedings before the Board of Appeal to pay the costs incurred by the applicant.

Pleas in law

- Infringement of Articles 58(1)(a), 58(2) and 18(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council, and Article 19(1) of Commission Delegated Regulation (EU) 2018/625 in conjunction with Article 10(3) of Commission Delegated Regulation (EU) 2018/625;
 - Infringement of Article 94(1) of Regulation (EU) 2017/1001 of the European Parliament and of the Council.
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