

2. Orders Przedsiębiorstwo Energetyki Cieplnej sp. z o.o. to pay the costs, including those of the interim proceedings.

⁽¹⁾ OJ C 402, 31.10.2016.

**Judgment of the General Court of 25 January 2018 — Grupo Ganaderos de Fuerteventura v EUIPO
(EL TOFIO El sabor de CANARIAS)**

(Case T-765/16) ⁽¹⁾

(EU trade mark — Application for the EU figurative mark EL TOFIO El sabor de CANARIAS — Absolute grounds for refusal — Descriptiveness — Article 7(1)(c) of Regulation (EC) No 207/2009 (now Article 7(1)(c) of Regulation (EU) 2017/1001))

(2018/C 094/28)

Language of the case: Spanish

Parties

Applicant: Grupo Ganaderos de Fuerteventura, SL (Puerto del Rosario, Spain) (represented by: E. Manresa Medina, lawyer)

Defendant: European Union Intellectual Property Office (represented by: J. Crespo Carrillo and J. García Murillo, acting as Agents)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 28 July 2016 (Case R 1404/2015-5), concerning an application for registration of the figurative sign EL TOFIO El sabor de CANARIAS as an EU trade mark.

Operative part of the judgment

The Court:

1. Annuls the decision of the Fifth Board of Appeal of the European Union Intellectual Property Office (EUIPO) of 28 July 2016 (Case R 1404/2015-5);
2. Dismisses the action as to the remainder;
3. Orders EUIPO to bear its own costs and to pay the costs incurred by Grupo Ganaderos de Fuerteventura, SL.

⁽¹⁾ OJ C 6, 9.1.2017.

**Judgment of the General Court of 30 January 2018 — Jean Patou Worldwide v EUIPO — Emboga
(HISPANITAS JOY IS A CHOICE)**

(Case T-808/16) ⁽¹⁾

(EU trade mark — Opposition proceedings — Application for EU figurative mark HISPANITAS JOY IS A CHOICE — Earlier EU word mark JOY — Genuine use of the earlier mark — Relative ground for refusal — Likelihood of confusion — Similarity of the signs — Article 8(1)(b) of Regulation (EC) No 207/2009 (now Article 8(1)(b) of Regulation (EU) 2017/1001))

(2018/C 094/29)

Language of the case: English

Parties

Applicant: Jean Patou Worldwide Ltd (Watford, United Kingdom) (represented by: S. Baran, Barrister)

Defendant: European Union Intellectual Property Office (represented by: T. Frydendahl, A. Folliard-Monguiral and D. Walicka, acting as Agents)

Other party to the proceedings before the Board of Appeal of EUIPO: Emboga, SA (Petrel, Spain)

Re:

Action brought against the decision of the First Board of Appeal of EUIPO of 23 June 2016 (Case R 235/2016-1), relating to opposition proceedings between Jean Patou Worldwide and Emboga.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders Jean Patou Worldwide Ltd to pay the costs.

⁽¹⁾ OJ C 14, 16.1.2017.

Judgment of the General Court of 25 January 2018 — SilverTours v EUIPO (billiger-mietwagen.de)

(Case T-866/16) ⁽¹⁾

(EU trade mark — Application for the EU word mark *billiger-mietwagen.de* — Absolute ground for refusal — Descriptiveness — Lack of distinctive character — Article 7(1)(c) of Regulation (EC) No 207/2009 (now Article 7(1)(c) of Regulation (EU) 2017/1001))

(2018/C 094/30)

Language of the case: German

Parties

Applicant: SilverTours GmbH (Freiburg im Breisgau, Germany) (represented by: P. Neuwald, lawyer)

Defendant: European Union Intellectual Property Office (represented by: S. Hanne, acting as Agent)

Re:

Action brought against the decision of the Fifth Board of Appeal of EUIPO of 3 November 2016 (Case R 206/2016-5), concerning an application for registration of the word sign *billiger-mietwagen.de* as an EU trade mark.

Operative part of the judgment

The Court:

1. Dismisses the action;
2. Orders SilverTours GmbH to pay the costs.

⁽¹⁾ OJ C 53, 20.2.2017.