

?????? ?? ?????????? (?????? ????)

??? 12?? ?????? 2014 (\*)

«????????????? ?????????? — ??? ?????? ??? — ?????????? — ??? 13, ?, ?????????? ?,  
?????? 3 ??? 5 — ??????? ??????? ??????" ??? ?????? ??????????" — ??????? ??????????  
??? ??????? — ??????? ??? — ??? ?????? ??? ???»

???? ?????? C?461/12,

? ? ?????????? ?????? ?????????????? ?????????? ??? ?????? 267 ????, ???  
?????? ?? Gerechtshof's-Hertogenbosch (???? ??), ?? ??????? ??? 11?? ?????????? 2012,  
? ????? ?????? ??? ?????????? ??? 15 ?????????? 2012, ??? ?????? ??? ???

**Granton Advertising BV**

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**Inspecteur van de Belastingdienst Haaglanden/kantoor Den Haag,**

? ? ?????????? (?????? ????),

?????????? ??? ??? T. von Danwitz, ??????? ????????, E. Juhász, A. Rosas (?????????), D.  
Šváby ??? C. Vajda, ????????,

?????? ??????????: J. Kokott

?????????: A. Calot Escobar

?????? ??? ?? ?????? ????????????,

?????????? ??? ?? ?????????????? ??? ??????????:

– ? ?????????? ????????, ?????????????? ??? ??? M. Noort ??? C. Wissels,

– ? ?????????? ??? ??????? ????????, ?????????????? ??? ??? C. Murrell,  
????????????? ??? ??? R. Hill, barrister,

– ? ?????????? ????????, ?????????????? ??? ??? A. Cordewener ??? E. Manhaeve,

???? ?????? ?? ?????? ?????????? ??? ??????? ??? ?????????? ??? ??? ?? ??????????  
??? 24?? ??????? 2013,

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1 ? ?????? ??????????????? ?????????? ?????? ??? ?????????? ??? ?????? ?????????  
77/388/??? ??? ???????????, ??? 17?? ????? 1977, ??? ?????????????? ??? ?????????? ???  
?????? ??????, ??? ?????????? ?? ??? ????? ?????? ?????? ?????? — ?????? ??????? ???  
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???? ??????).

2 ? ??????? ??? ???????????? ??? ??????? ?????????? ??????? ??? Granton Advertising BV  
(???: Granton Advertising) ??? ??? Inspecteur van de Belastingdienst Haaglanden/kantoor  
den Haag (????????????? ??? ?????????? ?????????????? ?????????? Haaglanden/?????? ????,  
??? ????: Inspecteur), ??????? ?? ??? ??????? ??? ????? ?????????????????? ??? (???: ????:  
???) ??? ??????? ??????? ?????????? ??????? ??? ????? ?????????????? ? Granton  
Advertising ??? ?? ??????? ??? 2001 ??? 2005.

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3      ?? ?????? 11, ?, ?? ?????? ????????, ?? ?????? ?????????????????? ???. VIII «?????  
????????? ???. ???» ??? ?????? ??????, ?????????? ???. ?????????? ???. ??? 3 ???. ????????:

«???? ???? ?????????? ??? ?????? ??? ??????????????????:

[...]

?) ?? ?????????? ?? ???? ?????????? ??????????, ?? ?????????????? ??? ?????????? ? ???  
????? ??? ???? ????? ?????????????? ??? ??????

[...]».

4 ? ?????? X «?????????» ??? ?????? ?????? ?????? ??????? ?? ??? 13, ?? ????  
 ?????????? «????????? ??? ?????????? ??? ?????», ??? ?????????? ?? ??? A  
 (????????? ??? ?????? ?????????? ?????? ?????? ??????????), B (????? ????) ??? ?  
 (????? ????).

5       ????? ?? ?????? 13, ?, ??? ?? ????? ????????:

«?? ?? ?? ?????????? ?? ?? ?? ?????????? ?? ?? ?? ??????????, ?? ?? ?? ?? ?? ?????????? [...]

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?)    ??? ?????????? ????????:

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3)    ??? ????????, ?????????????? ??? ??? ??????????????????, ?? ?????? ??????  
???????????, ?????????????? ??????????????, ????????, ?????????? ?? ??????????,  
???????????, ????????, ?? ?????? ??????????, ?????????? ?? ?????????? ??????????

[...]

5)     ???? ??????????, ?????????????????? ??? ???? ??????????????????, ???' ?????????? ???  
????????? ??? ??? ??????????????, ?? ?????? ??????? ?????? ??? ?????? ?????? ??????????  
????????, ?????????? ??? ?????? ???????, ??????????:

- ??????? ?????????????????? ????????????,
- ??????????? ? ?????? ?????????????? ??? ????? 5, ??????????? 3.

[...]»

?? ?????????? ???

6 ?? ????? 11 ??? ????? ???? ????? ?????? ??????? (Wet op de omzetbelasting), ???  
28?? ??????? 1968 (*Staatsblad* 1968, ????. 329), ??? ????? ??? ????? ??? ????? ?? ???????  
?? ????? ???, ??? ?? ??????:

«1. ?????????????? ??? ????, ??? ?????????????? ??? ?????????? ?? ?????????????? ?????????? ???:

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i ?? ?????????? ?????????? ?????? ??? ?????? ??????????

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2 ?? ???????, ?????????????????? ?? ??????????????????, ?? ????????? ?? ???? ?? ??????  
?? ?? ??????????, ?? ?????? ?????? ?????? ?????? ?????? ?? ?????? ?????? ??????, ?? ??????????  
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[...]

2 ???????, ?????????????????? ?? ??????????????????, ?? ?????? ?????? ?????? ??????????????  
????? ?? ??????????????, ??????????, ???????, ?????????? ???????, ??????????,  
????????? ?? ?????????? ?????????? ?? ?????????? ?? ?????????? ??????????????

[...]]».

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8      ??? ??? ?????? ?????? ??? ??????????-????????????? ??? ?????? ? Granton Advertising ?? ???  
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??? ?????? ??? ?????????? ?????? ?????????? ???, ?? ?????????? ?? ??? Granton

Advertising, ?? ?????????????? ??????? ?????????????????? ??? ?? ?????????? ??? ?? ?????????? ???.  
????. ????, ?? ?????????????? ?????????????? ?????????????? ?? ?????????? ?? ?????????? ?? ??????????  
??? ??????? ?????? ??? ????? ?????????????? ??? ?? ?????????? ?? ?????? ??? ????? ??????????  
??? ?????????????? ?? ??? ????? ?????? Granton, ??? ?? ?????? ??? ?? ?????????????? ??  
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9 ??? ?????? ??? ?????? ?? ?????? ?????????-????????????? ?????????? ?????? ??? ?  
Granton Advertising ?????????? ??? ?????? ?????????, ?????????, ?????????, ??????????  
??? ?????? ??? ?????? Granton. ? ?????? ??? ?????????? ??? ?? ?????????? ? Granton  
Advertising ?? ?? ?????? ?????? ??? ????? ?????????????? ?????????????? ??? ?????? ???  
????? Granton ??? ?? ?????? ?????????? ??? ?? ?????????????? ???.

10 ??? ?????? ?? ?????????????? ??? ?? ?????? ??????, ?? ?????? ??????????  
????????????? ??? ??? ?????? Granton ?????? ??? ?????? ??? ?????????? ?????????? ???  
??? ?????????? ?????? ??? ?????? ??? ?????? ?????????? ?????? ??? ?????????? ?????? ???  
????????????? ??? ?????? ??? ?????? . ? ?????? ?????????? ?????? ??? ?? ?????????? ???  
????????? ??? ?????????? ??? ?????? ?????, ?? ?????? ??? ?????? ?????? ?????? ???,  
????????? ??? ?????????? ??? ?????? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????? ???  
??? ?????? ?????????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??? ?????? ???  
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????????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ???  
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11 ??? ?????, ?? ?????? Granton ??? ??? ?????????? ??? ?? ?????????????? ????,  
??? ?????????? ??? ?? ?????????????? ??? ?? ?????????? ?? ?????? ??? ?????? ??????????.

12 ??? ?? ?????? ??? 2005, ? Inspecteur ?????????? ?????????? ??? ?????? ??? Granton  
Advertising. ?????????? ?? ??? ? ?????? ??? ?????? Granton ??? ??? ?????????????? ???  
????? ??? ?????? ?????? ?????? ?????? ???, ? Inspecteur ?????? ??? ?????? ???  
Granton Advertising ??? ?????? ?????? ?????? ????. ?????? ?????? ?????? ?????? ???  
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????? ??? 643 567 ???.

13 ???????, ? Granton Advertising ?????? ??? ? ?????? ??? ?????? Granton  
????????? ??? ??? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ?????? ??? Inspecteur  
????? ??? Rechtbank Breda (????????? Breda). ???????, ?? Rechtbank Breda  
????????? ??? ??? ?????????? ?????? ??? ?? ?????? Granton ??? ??????????  
«????? ??????» ? «????? ??????» ??? ??? ?????? ??? ?????? ?????? ?????? ?????? ??????  
????, ?????? ?????, ??? ?????? ??? ?????? ?????? ?????? ?????? ?????? ?????? ?????? ??????  
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????? ??? ?????????? ??????.

14 ? Granton Advertising ?????? ??? ??? ??? ?????? ??? Rechtbank Breda ??????  
?? ?????????? ?????????? ??? Gerechtshof's-Hertogenbosch (????? 's-Hertogenbosch). ??  
????????? ??? ?????? ??? ?? ?????? ?????? ?????? ?? ?????? ?????? ??? ??????  
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Rechtbank Breda. ??????????, ?? ?? ??? ?????????????? ?????????????? ??? ??? ??  
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15 ??? ??? ?????????? ??????, ?? Gerechtshof's-Hertogenbosch ?????????? ?? ??????????  
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«1) ??? ? ?????? "?????? ??????" ??? ?????? 13, ?, [...] ????????, ??, ?????? 5, ??  
????? ?????? [...], ?? ?????? ??? ?????????? ?? ?????? ?? [?????? Granton], ??????  
????????????? ?????? ??? ?????????????? ?? ?????? (???????) ?????????? ??? ??  
????????? ?????? ??? ?? ?????? ?????????, ???, ?? ???, ?????? ??? ?????? ?????? ??  
????????? ? ?????? ??? ? ?????? ?????? ?????? ??? ?? ?????? ??;»

2) ?? ?????????? ?????????? ?????????? ??? ?????? ??????, ??? ? ?????? "?????  
?????????" ??? ?????? 13, ?, [...] ????????, ??, ?????? 3, ?? ?????? ?????? [...] ??? ??????  
??? ?????????? ?? ?????? ?? [?????? Granton], ?????? ?????????????? ?????? ??  
????????????? ?? ?????? (???????) ?????????? ??? ?? ?????????? ?????? ??? ?? ??????  
?????????, ???, ?? ???, ?????? ??? ?????????? ?? ?????????????? ? ?????? ??? ? ??????  
????????? ?????? ??? ?? ?????? ??;

3) ?? ?????????? ?? [?????? Granton] ?????????? "?????? ??????" ? "?????  
?????????" ??? ?? ?????? ??? ?????? ??? ?????????? ??????????, ??? ?????? ?????? ??? ?? ?????????? ??  
????????? ?? ? ?????? ??? ?????? ??? ?? ?????? ?????? ?????????? ??? ?? ?????? ?????? ??? ??  
????????? ???, ??? ?? ?????? ??? ?????? ?????, ? ?????????? ??? ?? ??? (?????????)  
????????? ???) ?????? ??? ?????????????? ??? ?????????? ??? ?? ?????????? ??? ?? ??????  
????? ??? ????;»

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16 ?? ?? ?????????? ???, ?? ?????? ?????? ?? ?????????? ??? ??????, ?? ??????  
????????? ???' ?????? ?? ?????????? ?? ?? ?????? 13, ?, ????????, ??, ?? ??????  
????????? ??? ?? ?????? ??? ? ?????? ?????????? ?? ?????? ??? ? ?????? ??? ?????? ???  
????????? ?????? ?????? ?? «?????? ??????» ? ?? «????? ??????????» ??? ?? ??? ??????,  
?????????, ??? ?????? 5 ??? 3 ??? ?????????? ???, ??? ?????? ?????????? ?????? ???  
????? ?? ?????? ??? ?????? ?? ?????????? ??? ?????????? ??? ?? ??? ??.

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17 ?????????????? ??? ?? ?????? ??? ?????????? ??? ?????? Granton ??? ?? ??? ??  
????????? ?????????? ??? ?? ?????? ??? ?????? ?????????? ??? ?? ?????? ??? ??????????  
????????????? ??? ?? ??? ?????? (??., ????, ????, ????, ????, ????, ????, ????, ????,  
C427/98, EU:C:2002:581, ??? 57 ??? ??? ?????????? ??????????). ????????, ??????????  
?? ?????????? ?? ?????? ?????????? ?? ?????? ?????????? ????????, ?????? ????, ?? ??????  
?? ?????????? ?????????? ?????????? ?? ?????? ?????????? ????????, ?????? ????, ?? ??????  
?????????, ??? ?????? ?????????? ?? ?????? ?????????? ?? ?????? ??? ?????? ??? ??????  
?? ?? ??? ?????? ??? ??????, ??? ?????? ??? ?? ?????? ?????? ??? ?????? ?????? ??? ??  
????????? ??? ?????????? ?????????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????? ???.

18 ??????, ??? ?? ?????? ?????????????? ?????????? ?????????? ??? ? ?????? ??????  
Granton ?????? ?? ?????????? ?????????? ?? ?????????? ??? ?????????? ?? ?????????? ???  
????????? ??? ?????????? ???, ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ???.

Granton Advertising, ?????????????????? ?????? ?????? ??? ????? ??????????? ??? ??????????.  
????????? ??? ?? ???? ?????? ??? ?????????????? ?????????? ?????????? ??? ?? ????  
Granton «????????????????? ?? ??? (????????) ?????????» ??? ??? ?????????? ?????? ???  
?? ?????? ??????????, ??? ?????? ?????? ?????????? ?????????????? ??? ?????? ?????? ??????????????  
????????? ?????????? ???, ?? ??? ?????? ??? ?????????? ?????? ??? ?????? ??? ??? ?????? ???, ?  
????????????? ?????????? ?????????? ?????????? ??? ?????? ??? ?? ?????? ?????? ??? ?????? ??? ??????  
?????????, ?? ?????????? ?? ??? ?????? ?????? ?? ??? ?????????????? ?????? ?????? ?????? ???  
?? ?????? ??? ?????????????? ??????.

19 ??????????????, ?????? ?? ????? ?????? ??? ?? ??????? ??? ? ??????????????  
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????????? ?????????? ??? ?????????????? ?????? ???????, ??? ?????????????? ??? ? ??????????  
????????? ?? ??? ?????? ?????????? ?????????????? ???, ??????? ??? ?????????? ??? ?????? ???  
?????? 11, A, ?????????? 3, ??????? ?, ??? ?????? ??????. ??? ?? ?????????? ???  
??????????, ??? ?????? ??????, ? ?????? ??? ?????????????? ??? ??? ?????? ?????? ???  
????? ??? ??? ?????? ??????, ?????????? ?????????? ??? ?????? ??? ?????? ?????? ???  
????? ?????????? ?????????? ??? ??? ?????????? ??? ?????? ??? ?????? ?????????? ? ??????  
????????? (??., ??????, ?????? Boots Company, C?126/88, EU:C:1990:136, ??? 22, ???  
Argos Distributors, C?288/94, EU:C:1996:398, ??? 16).

20 ????????, ??? ????? ?? ??? ????? ?????????? ??? ?????? ??? ????? ?????? ?????????? ???  
?????? Granton, ?????????????? ??? ?? ??? ?????? ??? ?????????????? ?? ?????????????? ??? Granton  
Advertising ??? ??? ???????? ?????? Granton ??? ?????? ?? ?????????? ??? ??????????  
?????? ?? ????????, ? ?????????? ?????? ?????, ??? ??? ?????????? ??? ?????????? ??  
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??????????. ????????????, ??? ?????????????? ?????????? ?????? ?????????? ?????? ???  
????? ?? ?????? ?????????? ?? ?? ??? ????? ?????????? ??? ??? ?????????? ??? ??????  
Granton ??? ??? ?????? ? ??? ?????????? ??? ?????????? ?? ?????????? ?????????? ?? ??  
????? ?????????? ??? ??? ?????????????? ?????????????? (??, ???????, ??????????  
Coöperatieve Aardappelenbewaarplaats, 154/80, EU:C:1981:38, ??? 12, ??? Hotel Scandic  
Gåsabäck, C?412/03, EU:C:2005:47, ??? 22).

22    ??? ??? ????????, ????, ?????? ?? ?????? ??????, ??????, ???, ?????????? ???? ????  
??????????? ??? ?????????? ???????????, ? ?????? ?????? Granton ??? ?????? ?? ??????  
«??????», ??? ??? ?????????? ??? ?????? ???????, ?????????? ??? ??? ??????????????  
????????? ??? ?????? ??? ??????????, ????????, ??? ?? ?????????? ??? ?????????? ???  
????????? ?? ?????????????? ?????????????? ??? ?????????????? ??? ??? ?????? ?????? ???  
????? ??? ??????? ??? ?????? ?? ??????? ??????????? ?? ?????????? ?????? ??? ???  
?????? ??? ?????? Granton ???, ??????, ??? ?? ??????? ??? ?????????? ?? ??????

Grantor ?????? ??????????? —?????????? ?????? ??????????? ??? ?????? ?? ????  
?????????? ?? ??????? ??????? ?? ??????????????? ?? ??? ???????????????  
??????????— ??? ? ?? ??????? ?? ??????? ?? ??? ??? ??.

??? ??? ?????????? ??? ??????? ?????????? ??? ?????? Granton

23    ??? ?????? ?? ??????? ?? ? ?????? ?????????? ??? ?????? Granton ?????? ? ??? ??  
????????? ??? ?? ?, ??? ?????? ??????? ?? ?????????????? ?? ?? ?????????? ?????? ??????  
????????? ??? ?????? «????? ??????» ? «????? ??????????» ??? ???????????????,  
??????????, ??? ?????? 5 ??? 3 ??? ?????? 13, B, ????????, ??, ??? ?????? ??????.

24    ??? ?? ?????????? ??? ?????????? ?? ?????? ?????????? ?????? ?????????? ??????????  
????????? ??? ???????????, ??? ?????? ?????????? ?????????? ??? ? ?????????? ??? ??????????  
????????? ??? ?????? ??? ? ?????????? ???????, ??? ?????? ??? ?????????? ?????? ??? ??  
????? Granton ??? ?????????? ??? ?? ??? ???????, ??? ???, ?? ?? ??????, ? ?????? ???  
??? ?????? ?????? ?????????????? ??? ??? ???.

25    ?????????????? ???, ??? ?? ?????????? ??? ???????????, ?? ??? ??  
????????????? ??? ?? ?????????? ??? ?????????? ??? ?????????? ??? ?????????? 13 ??? ?????? ??????  
????????? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ?????????? ??? ?????? ??? ??????  
????????? ??? ?????? ??? ?????????? ??? ?????????? ??? ?????? ??? ??? ?????? ??? ?????? ??? ??????  
(????? Nordea Pankki Suomi, C?350/10, EU:C:2011:532, ??? 22 ??? ??? ???????????  
?????????), ??? ??? ?? ??? ?? ?????? ?????? ?? ?????????????? ???, ?????????? ??? ??  
????????? ??? ?????? ?????????? ?????????????? ??? ?? ?????? ??? ? ??? ?????????? ??? ?????? ??? ??  
????? ?????? ?????????? ??? ?????????????? ??? ?? ?????????? ??? ?????? ??? ?????? ??? ?????? ??? ??  
????????? ??? ??? (????????? Stichting Uitvoering Financiële Acties, 348/87, EU:C:1989:246,  
????? 13, ??? Skandinaviska Enskilda Banken, C?540/09, EU:C:2011:137, ??? 20).

26    ?????????? ?? ?????????? ?? ?????????? ?? ?????????? ?????? ??? ?????? ?????? Granton  
?????????, ????, ??? ?????? «????? ??????» ?, ????????, ??? ?????? «?????  
?????????», ??? ?????? ?????????????? ??? ?????? 13, B, ????????, ??, ??? ?????? ???????,  
????? ?? ?????????? ??? ?????? ??? ?????? ?? ?????? ??? ?????????? ???, ?? ?????? ??? ??  
????? ??? ?????? ??? ?????? ??? ?? ?????? ??? ?????????? ??? ?????? ??? ?????? ??? ??????????  
????????? (?. ??????, ???, ?????, ?????? Merck, 292/82, EU:C:1983:335, ??? 12?  
ebookers.com Deutschland, C?112/11, EU:C:2012:487, ??? 12, ??? RVS  
Levensverzekeringen, C?243/11, EU:C:2013:85, ??? 23).

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27    ??? ?????? ?? ?????? ??? ?????????? ?? ?????? ?????????? ??? ?????? ?????????? ??????????,  
????????????? ???, ??????? ??? ?????? 13, B, ????????, ??, ?????? 5, ??? ?????? ???????,  
?? ??? ?????? ??? ?????????? ??? ?????? ??? ?????? «?? ?????? ?????? ?????? ??? ?????? ???  
????????? ??? ?????? ??? ?????????? ???, ?????????? ??? ?????? ??? ?????????? ?????? ???  
????????? ??? ?????? ??? ?????????? ???, ???????, ?????????? ??? ?????????? ?????? ???  
????????? ??? ?????? ??? ?????????? ???, ???????, ?????????? ??? ?????????? ?????? ???  
????????? ??? ?????? ??? ?????????? ??? ?? «????? ??????» ??? ?????????? ??? ?????? ???  
????? ??? ?????? ??? ?????????? ??? ?????? «?????». ?? ?? ??????, ??? ?????? ??  
????????? ??? ? ??? ?????? ??? ?????? ?????????? ?? ?????? ??? ?????? ??? ?????????? ???  
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28    ? ?????????? ??? ?????????? ?????????????? ??? ?? ??? ? ???? ??? ?????? ??????  
????????? ??? ??? ?????????? ?????? ??? ?????? ?????? ???????, ?????? ?????????? ???  
????????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ???

????????????? ?????? ? ??????????? ??? ?????????? ????? ?????????? ? ???' ??????????  
????????? ? ?????????? ????????, ?????? ?? ?????? ?????? ?????? ?????? ?????  
????????? ?? ?????????? ?????? ??????? 5, ?????????? 3, ?????????? ?, ??? ?????  
????????? (??., ???????, ??????? DTZ Zadelhoff, C?259/11, EU:C:2012:423, ??? 42).  
?????????????, ? ???? ??? ??????????? ?? «?????», ??? ?????? ??? ??????????????, ??????  
????, ?????????? ?????????? ??? ??????? ? ???????, ???????, ??? ??? ??????????  
???? ??? ??? ?????? ??? ?????????? ???? ??????? ???????, ??????? ?? ??? ??? ??? ?????? ???  
??? ?????? ?????? ?? ?????????? ???? «?????» ??? ??? ?????? ??? ?????? 13, B,  
????????? ?, ?????? 5, ??? ????? ??????.

29 ??? ?????? ?? ??????? ??? ?????? ?????????? ??? ?????? ?????, ??????????????  
????????? ??? ?????????? ??? ?????? ??? ?????? ?? ?????????? ??? ??? ?????? ??????  
??? ?????? 13, B, ??????? ?, ??? ?????? ???????, ????????, ?? ???? ??? ?????? ???,  
????????????????? ??????. ?? ?????? ?????, ??? ?????????? ?? ??? ??? ?? ??? ???  
????????? ???????, ?????? ??? ?????? ?????????? ?? ?????????? ??? ??????????  
????????????? ???????, ???????, ??? ?????? ???, ??? ?????? ???  
????????????? ?????? (??., ???????, ??????? Velvet & Steel Immobilien, C?455/05,  
EU:C:2007:232, ?????? 21 ??? 22 ??? ?????? ??? ?????????????? ??????????).

30 ??? ?????? ?? ??????????, ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ? ?? ??? ?????? ???,  
???, ??? ?????????? ??? ?? ?????????? ??? ??????????, ? ?????? ??? ?????????? ??? ??  
??? ??? ?????????????? ??? ?????? ??? ?????????? ??? ?????? 13, B, ??????? ?,  
????? 5, ??? ?????? ???????, ???????????, ?????? ???, ??? ?????????? ??? ??????????  
??? ?????????? ?? ??? ?????????? ??? ?????? ?????????? ??? ?????? ??? ?????? ??? ?????? ???  
???? ?????? ??? (??.. ??????? Velvet & Steel Immobilien, EU:C:2007:232, ?????? 24, ???  
Skandinaviska Enskilda Banken, EU:C:2011:137, ?????? 21).

31 ??? ?????? ?? ??????? ??, ?? ??????????, ?????????? ?????? ??? ?????? ??? ????? Granton  
?????? ?? ?????????? ??? «????? ??????» ??? ??? ?????? ??? ?????? 13, B,  
?????? ?, ?????? 5, ??? ?????? ???????, ??????? ?????????? ?? ?????????? ??? ??????  
????????? ??????? ??????? ???, ??? ?????? ??? ?????? ?????? ?????????? ??? ??????  
????????? Granton Advertising ??? ?????? ?????? ??? ?????? ??? ?????? ???, ???????,  
????????? ??? ?????? ?????? ?????????? ?? ?? ?????? ??? ?????????? ?????????? ?,  
????? Granton ??? ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????  
????? ?????? ?????????? ??? ?????????? ?????????? ???? ?????? ?????????? ??? ???  
????????? ?????? ??????????.

32 ?? ???????, ??? ??? ??????? ??? ?????? ?????????????? ??? ?????? ??? ?????? Granton,  
????? ??? ?????????? ??? ?? ?????????? ??? ?????? ?????????? ??? ?????? ??? ???????????,  
????????? ??? ?? ??? ?????? ??? ?????? ??? ?????? ?????????? ???, ??? ?????? ?? ??  
????????? ??? ?? ?????????? ?? ??? ?????? ?????? ?????? ?????? ??? ??? ??????????????  
?????????.. ??? ??? ?????? ?????, ??? ?????? ?????? ?????? ?????? ??? ?????? ??? ?????????? ???  
??????, ?? ?? ??? ?????? ???, ?????????????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
??? ?????????? ??? ?????? ?? ?? ?????? 13, B, ??????? ?, ??? ?????? ?????? (??., ???????,  
????????? Velvet & Steel Immobilien, EU:C:2007:232, ?????? 22 ??? 23, ?????? ??? Nordea  
Pankki Suomi, EU:C:2011:532, ?????? 24 ??? 27).

33 ???, ??? ?????? ??? ? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????????? ???  
????????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ?????? ??? ??????????  
????? Granton, ? ?????????? ??? ??? ??? ?????? ?????? ??? ?????? ??? ?????? ??? ??????????  
????????? ??????.

34 ?????????? ??? ?? ?????? ??? ?????? ??? ?????? ??? 13, B, ?????????? ??, ??? ???

?????? ? ?? ?????????? ?? ??????? ??????? ?? ?????????????? ??????, ??? ?????????????? ??  
?? ?????? 25 ?? ??????? ??????????, ?????? ?? ????? ?????? ?? ?????????? ?????? ??  
?? ?????????? ??? ?????? ??? ?????? ?? ?????????? ?????? «????? ?????» ??? ?????? 13, B,  
?????? ??, ?????? 5, ??? ?????? ?????.

??? ??? ?????????? ?? ?? ?????? Granton ?????????? ??? ?????? «????? ??????????»

35 ??? ?????????? ??, ??? ?? ????? 13, ?, ??????? ??, ?????? 3, ??? ?????? ???????,  
?? ?????? ??? ?????????? ??? ?????? ??? ??????, ?????? ?????, «??????????,  
????????? ??????????, ???????, ?????????? ??? ?????????, ?????????, ??????????  
??? ?????? ??????».

36 ??? ?????? ?????? ?????????? ?? ?? ?????? 29 ??? ?????????? ?????????? ??? ?????? ???  
????? «????? ?????» ??? ?????? 13, B, ??????? ??, ?????? 5, ??? ?????? ???????,  
????? ?? ?????? ??? ?????? ??? ?????? ??? ?????????????????? ?????? ?????????? ??? ??  
????????????? ?????? ??? ?????? 3 ??? ?????????? ?????? (??., ??????,  
????? Velvet & Steel Immobilien, EU:C:2007:232, ??? 22).

37 ??? ?????????? ??, ??? ?? ?????? 13, ?, ??????? ??, ?????? 3, ??? ?????? ??????? ??,  
????? ????, ??? ??????? ?? ?????? ?? ??????. ??? ?????? ?????????? ?? ?? ?????? 18  
?? 31 ??? ??????? ????????, ??????? ?? ?????? Granton ?????????? ?????????? ??????????  
??? ????????, ?????????? ?? ?????????? ?????? ?????? ?????????? ??? ?????? ?????? ??? ??  
??? ?? ?????? ??????. ??????????, ??? ?????????? ??? ?????? ?????????? ??? ?????????? ???  
?????????, ??? ?? ?????? ?????? ?????? ?????? ?????????????? ??? ?????? ???  
????????????? ?????? ?????????? ??????????, ? ?????? ?????????? ?????? ??? ??????????  
????????????? ?????? ?????????? ??????????, ???' ?????????? ??? ?????? ??? ?????????, ??? ?????????? ???  
?? ?????????? ??? ?????? ??? ??????????.

38 ??? ??? ?????? ??????, ?????????? ?? ?? ?????? ??? ?????????? ??? ?????? 13, B,  
????????? ??, ??? ?????? ?????? ?? ?????????? ??? ?????????? ??? ?????? ?? ??????????  
?????, ??? ?????????? ?? ?? ?????? 25 ?? ?????????? ??????????, ?????? ?? ?????? ??  
??? ?????????? ?????? ?? ?????? ?????? ?????? ?????? ??? ?????????? ??? ?????? ??  
«????? ??????» ??? ?????? 13, B, ??????? ??, ?????? 3, ??? ?????? ??????.

39 ??? ?????? ?? ?????? ?? ?????????? ?? ??????????????, ? ?????????? ?? ?????? ?????? ??  
????????? ?? ?????????? ?? ?????? ?? ?????? 13, ?, ??????? ??, ??? ?????? ?????? ??  
????? ?? ?????? ?????????? ?? ?????? ?? ?????? ?????? ?????? ?????? ?? ?????? ??  
????? ?????? ?? «????? ??????» ?? «????? ??????» ??? ??? ??????, ???????????,  
??? ?????? 5 ??? 3 ??? ?????? ??????, ??? ?????? ?????????? ?????? ??? ?????? ??  
????? ??? ?????? ?? ?????????? ?? ?????? ??? ??? ???.

??? ??? ?????????? ??????

40 ??? ?????? ?? ?????? ?? ?????????? ?? ?????? ?? ?????? ??? ?????? ?????????? ??  
??? ?????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??????????, ??' ???  
????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ?? ??????????  
??? ?????? ?? ?????????? ?? ?????? ?? ?????? ?? ?????? ?? ?????? ??  
?????????.

??? ??? ?????? ?? ??????, ?? ?????????? (????? ????) ??????????:

? ? ?????? 13, ?, ??????? ??, ??? ?????? ?????? 77/388/??? ??? ??????????, ??? 17??  
????? 1977, ??? ?????????? ?? ?????? ?????? ?? ?????? ?????? ?????, ??? ?????????? ??  
????? ?????? ?????? ?????? — ??? ?????? ?????? ?????? ?????????? ?????? ??  
????????? ?????? ?????? ???, ??? ??? ?????? ??? ? ?????? ?????? ?????????? ??????

???? ? ??????? ????? ?? ???? ?????? ?? «??????» ?  
?? «????? ???????» ??? ???? ??????, ??????????, ??? ?????? 5 ??? 3 ???  
????????? ????, ??? ????? ?????????? ??????? ??? ?????? ?? ?????? ??? ??????  
?? ?????????? ??? ???? ????? ?????????? ?????.

(???????????)

\* ?????? ??????????: ? ???????.