

European Communities on 3 December 2001 by Lucía Aparicio Chofré, residing in Valencia (Spain), represented by Gloria Ballester Cañada, lawyer.

The applicant claims that the Court should:

- annul the decision of the selection board in general competition COM/B/01 in the event that it does not mark the tests sat by the applicant on 6 July 2001.

*Pleas in law and main arguments*

The applicant claims that the contested decision, which excludes her from the competition on the ground that she does not meet the conditions relating to professional experience required under Point III.B of the competition notice, not only adversely affects her but, moreover, is unlawful and contrary to the wording of the competition notice<sup>(1)</sup>, according to which candidates must have acquired, by the deadline for the submission of applications, at least 4 years' professional experience. The applicant argues that, in accordance with the criteria laid down in the notice for the calculation of the period of professional experience, she has shown that she has acquired 7 years and 8 months of experience, so that the board should have allowed her to take part in the competition.

<sup>(1)</sup> Published in OJ 2001 C 24A.

**Action brought on 3 December 2001 by Nordmilch eG against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

**(Case T-295/01)**

(2002/C 44/41)

*(Language of the case: German)*

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 3 December 2001 by Nordmilch eG, of Zeven (Germany), represented by C. Spintig, lawyer.

The applicant claims that the Court should:

- annul the decision adopted on 19 September 2001 by the Third Board of Appeal in Case No R 826/2000-3;
- order the defendant to proceed with the registration proceedings in respect of Community trade mark application No 607895, in particular to re-open the opposition proceedings pending under opposition No B 190746 and, following the conclusion of those opposition proceedings, in so far as Community trade mark application No 607895 is not found to be excluded from registration in accordance with the first sentence of Article 43(5) of the Community trade mark regulation<sup>(1)</sup>, order the defendant to register the trade mark applied for pursuant to Article 45 of that regulation;
- order the defendant to pay the costs.

*Pleas in law and main arguments*

The trade mark applied for: the verbal mark 'OLDENBURGER'  
— Application No 607895

Goods or services: goods in Classes 29, 30 and 32  
(including milk and dairy products)

Decision contested before the Board of Appeal: refusal of registration by the examiner

Decision of the Board of Appeal: rejection of the appeal

Grounds of claim: — error of law in the application of Article 7(1)(c) and Article 7(2) of Regulation (EC) No 40/94;  
— misinterpretation of Article 12(b) of Regulation (EC) No 40/94;  
— error of law by the defendant in failing to call upon the applicant to give a disclaimer.

<sup>(1)</sup> Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).