

The applicant further submits that Article 8 (4) of the Merger Control regulation, which constitutes the legal basis of the present Decision, is only applicable where a concentration has been implemented. The applicant states, however, that the concentration in this case has not been implemented in any way.

Thirdly, the applicant argues that the modalities for the divestiture constitute an infringement of Community law. According to the applicant, these modalities are disproportionate and exceed the Commission's competences under Article 8(4) of the Merger Control Regulation.

The applicant finally claims that the Commission has failed to respect the applicant's procedural rights, in that the Commission did not respect the applicant's right to be heard and relied on information not provided to the applicant.

(¹) Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (OJ L 395 of 30.12.1989 p. 1; text republished in OJ L 257 of 21.9.1990, p. 13).

Action brought on 20 March 2002 by Check Point Software Limited against the Office for Harmonisation in the Internal Market

(Case T-89/02)

(2002/C 156/55)

(Language of the case: English)

An action against the Office for Harmonisation in the Internal Market was brought before the Court of First Instance of the European Communities on 20 March 2002 by Check Point Software Limited, represented by Mr Graham Farrington of Farrington & Co Solicitors, Reading (United Kingdom).

The applicant claims that the Court should:

- annul the Decision of the defendant's First Board of Appeal of 7 January 2002; and
- order the defendant to remit the application to its Examination Division for re-examination of Community Trade Mark no. 1744168 (SECURECLIENT).

Pleas in law and main arguments

The Community Trade Mark concerned: SECURECLIENT

Product or service: 'Computer software to protect systems from unauthorised access', in International Class 9.

Challenged Decision before the Board of Appeal: Refusal of registration by the Examiner.

Grounds submitted: Infringement of Article 7(1)(b) and (c) of Regulation No 40/94.

Action brought on 28 March 2002 by Klausner Nordic Timber GmbH & Co. KG against the Commission of the European Communities

(Case T-91/02)

(2002/C 156/56)

(Language of the case: German)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 28 March 2002 by Klausner Nordic Timber GmbH & Co. KG, Wismar (Germany), represented by D.O. Reich, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- annul the Commission's decision of 15 January 2002 on State aid granted by Germany to Klausner Nordic Timber GmbH & Co. KG;
- order the defendant to pay the costs.