— in so far as necessary, annul that decision inasmuch as the Council and the Commission approved the other articles of the Agreement between the European Community and the Swiss Confederation on Trade in Agricultural Products, as well as the Agreement on Mutual Recognition in Relation to Conformity Assessment between the European Community and the Swiss Confederation, the Agreement between the European Community and the Swiss Confederation on Certain Aspects of Government Procurement, the Agreement on Scientific and Technological Cooperation between the European Community and the European Atomic Energy Community, of the one part, and the Swiss Confederation, of the other part, the Agreement between the European Community and the Swiss Confederation on the Carriage of Goods and Passengers by Rail and Road, the Agreement between the European Community and the Swiss Confederation on Air Transport, the Agreement on the Free Movement of Persons between the European Community and its Member States, of the one part, and the Swiss Confederation, of the other part;

— declare that the European Community, as represented by the Council and the European Commission, is liable and order the defendants to compensate in full the applicant wine growers for all damage arising from the 'Champagne Clause';

— order the Council and the Commission to pay the costs.

Pleas in law and main arguments

The applicants are, on the one hand, owners of vineyards in the municipality of Champagne, in the canton of Vaud in Switzerland and, on the other, acting in defence of the interests of those wine growers.

By the contested decision, the Council and the Commission approved seven bilateral agreements between the Community and the Swiss Confederation; one of those agreements concerns agricultural trade. One of the annexes to that agreement includes a provision prohibiting use of the name 'Champagne' for wine originating in the canton of Vaud.

In support of their arguments, the applicants allege, first, breach of general principles of law including right to their identity, to property and to the freedom to pursue professional activities. The word 'Champagne' is also protected in Swiss law, where it is an appellation communale d'origine contrôlée (registered municipal designation of origin). Moreover, the name 'Champagne' has been used in the production of wine in the area for many years and is thus the industrial and commercial property of the applicants.

Furthermore, a total ban on the use by the applicants of the name 'Champagne' does not observe the principle of proportionality. The applicants point out that the wine they produce is a non-sparkling wine which does not compete with French champagne. There is therefore no likelihood of confusion. In addition, there are less restrictive ways in which to achieve the same objective, such as by indicating the country of origin on the label.

Action brought on 12 July 2002 by SNF S.A. against the Commission of the European Communities

(Case T-213/02)

(2002/C 233/51)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 12 July 2002 by SNF S.A., represented by Koen Van Maldegem and Claudio Mereu at McKenna Long & Aldridge LLP in Brussels, Belgium

The applicant claims that the Court should:

— order the partial annulment of the Twenty-Sixth Commission Directive 2002/34/EC of 15 April 2002 adapting to technical progress Annexes II, III and VII to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products ([1]), so as to remove polyacrylamides from the measure;

— order the Commission to pay all costs and expenses in these proceedings.

Pleas in law and main arguments

The applicant seeks the partial annulment of the abovementioned Directive due to the fact that the Commission has placed restrictions on the use of the applicant's products, polyacrylamides, as ingredients in cosmetic products. The

applicant submits that in doing so, the Commission has disregarded several procedural rules set forth in Council Directive 76/768/EEC [2], as last amended by Commission Directive 2000/41/EC [3], which the contested Directive purports to implement.

It alleges that the procedural safeguards set out in the Cosmetics Directive and in the Commission Decision establishing the Scientific Committee on Cosmetic Products and Non Food Products intended for Consumers [4] have been violated. By not adequately informing the applicant of the ongoing deliberations and the status of the Committee's opinion on acrylamide, by disrespecting procedural safeguards aimed at preserving the impartiality of the decision-making, by using scientific standards that are at odds with prevailing EU decisions, by manifestly misinterpreting the data submitted by the applicant and by not adequately allowing the applicant to state its case and express its view on studies co-authored by it, the Commission has violated the applicant's rights of defence in a way which affects the validity of the contested Directive. Furthermore, the defendant omitted to notify the applicant of the Directive, so that the legislative process is affected by a procedural deficiency which necessarily affects its validity.

The applicant submits that the contested Directive improperly includes polyacrylamides in Annex III to the Cosmetics Directive based on a calculation of cancer potency which is at odds with the more specific and prevailing review of acrylamide under the EU chemicals legislation. The contested Directive also infringes a series of well established principles of Community law, e.g. the duty to state reasons, the principle of proportionality, the principle of uniform application of Community law and the principle of equal treatment. Finally, the Commission did not consider all interests at stake and ignored the recent scientific findings.

(1) OJ L 102, p. 19.
(2) Council Directive 76/768/EEC of 27 July 1976 on the approximation of the laws of the Member States relating to cosmetic products (OJ L 262, p. 169).
(3) Commission Directive 2000/41/EC of 19 June 2000 postponing for a second time the date after which animal tests are prohibited for ingredients or combinations of ingredients of cosmetic products (OJ L 145, p 25).
(4) Commission Decision 97/579/EC of 23 July 1997 setting up Scientific Committees in the field of consumer health and food safety (OJ L 237, p. 18).

Action brought on 17 July 2002 by Fieldturf Inc. against the Office for Harmonization in the Internal Market (Trademarks and Designs)

(Case T-216/02)

(2002/C 233/52)

(Language of the case: English)

An action against the Office for Harmonization in the Internal Market (Trademarks and Designs) was brought before the Court of First Instance of the European Communities on 17 July 2002 by Fieldturf Inc. Montreal (Canada), represented by Dr Patrick Baronikians at Schwarz Kurtze Schniewind Kelwing Wicke in Munich, Germany

The applicant claims that the Court should:

— annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trademarks and Designs) of 15 May 2002 (Case R 462/2001-1) concerning the registration of the trademark 'LOOKS LIKE GRASS... FEELS LIKE GRASS... PLAYS LIKE GRASS' and direct that the claimed mark will be registered for all the goods and service applied for;

— order the Office for Harmonisation in the Internal Market (Trademarks and Designs) to pay the costs of the applicant.

Pleas in law and main arguments

The trade mark concerned:	The word mark 'LOOKS LIKE GRASS... FEELS LIKE GRASS... PLAYS LIKE GRASS' — application No 1712918
Goods or service concerned:	Goods and services in Classes 27 and 37 (i.a. synthetic surfaces for athletic activities)
Decision contested before the Board of Appeal:	Refusal of registration by the examiner
Decision of the Board of Appeal:	Dismissal of the appeal