

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

- Grounds of claim:
- The trademark applied for satisfies the minimum requirements for a distinctive character (Article 7(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾).
 - The contested decision is contrary to jurisprudence of the Court.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20.12.1993 on the Community trade mark (OJ L 11, p. 1).

Action brought on 23 July 2002 by Olga Lutz Herrera against the Commission of the European Communities

(Case T-219/02)

(2002/C 233/53)

(Language of the case: Spanish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 23 July 2002 by Olga Lutz Herrera, residing in Brussels, represented by D. Ramón García-Gallardo, Gil Fournier and D. Javier Guillén Carra, lawyers.

The applicant claims that the Court should:

- annul the Commission's decision refusing the applicant's application to take part in competition COM/A/6/01;
- overturn the dismissal of the administrative appeal against the refusal of the applicant's application to take part in the said competition;
- order such other relief as the Court may think appropriate so that the Commission fulfils its obligations under Article 233 EC and, specifically, conducts a fresh examination of appeal No 486/01;
- order the defendant to pay the costs.

Pleas in law and main arguments

In the present action, the applicant seeks the annulment of the jury's decision of 31 July 2001 in competition COM/A/6/01 in so far as the applicant was thereby refused admission to that competition on the ground that she exceeded the age limit set in the notice of competition.

In support of her claim, the applicant alleges:

- that the Commission made a manifest error of assessment in that, in her appeal, the applicant was not seeking a declaration that one of the conditions stipulated in the notice of competition, namely the condition regarding age, was illegal, but a declaration that the jury's decision refusing her admission to the competition was illegal;
- infringement of the principle of equality, enshrined in Article 13 of the EC Treaty, which prohibits all discrimination based on age;
- infringement of Article 6 of the Charter of Fundamental Rights of the European Union and Article 14 of the European Convention on Human Rights.

Action brought on 23 July 2002 by Heron Robotunits GmbH against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-222/02)

(2002/C 233/54)

(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 23 July 2002 by Heron Robotunits GmbH, of Lustenau (Austria), represented by M. Bergermann, Lawyer.

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 (Trade Marks and Designs) of 6 May 2002 (Ref: R 1095-2000-1);
- order the defendant to pay the costs.