The applicant claims that the Court should:

— annul the decision of the Board of Appeal of 13 February 2003 and/or the corrigendum of the decision of the First Board of Appeal of 13 March 2003;

— order the defendant to pay all the costs associated with these proceedings.

Pleas in law and main arguments

The origin of the action is the same as in Case T-380/02 (SUCCESS-MARKETING Unternehmensberatungsgesellschaft v OHIM, (OJ C 101 of 26.4.2003, p. 35)), and the pleas in law and arguments correspond to those submitted in that case.

Action brought on 18 April 2003 by Shering-Plough Ltd. against the Commission of the European Communities and the European Agency for the Evaluation of Medicinal Products ('EMEA')

(Case T-133/03)

(2003/C 171/55)

(Language of the case: English)

An action against the Commission of the European Communities and the European Agency for the Evaluation of Medicinal Products ('EMEA') was brought before the Court of First Instance of the European Communities on 18 April 2003 by Shering-Plough Ltd., Brussels, Belgium, represented by Dr. G. Berrisch and Mr P. Bogaert, lawyers.

The applicant claims that the Court should:

— annul the Decision of 14 February 2003 of the EMEA rejecting a so-called type I variation for the name of the medicinal product 'Allex 5 mg oral lyophilisate' into 'Allex Reditabs 5 mg oral lyophilisate'.

— order the Defendants to pay the Applicant's costs

Pleas in law and main arguments

The applicant is active in the field of medicinal products and is the Marketing Authorisation Holder for medicinal products approved under the name 'Allex'. This Marketing Authorisation ('MA') covers three pharmaceutical forms: film-coated tablets, syrup and an oral lyophilisate.

On 2 October 2002, the applicant submitted to the EMEA an application for a type I variation of the MA to change the name of the oral lyophilisate form from 'Allex 5 mg oral lyophilisate' to 'Allex Reditabs 5 mg oral lyophilisate'. In the light of further explanations given by the applicant, the EMEA refused with the contested decision to allow the name change.

In support of its claim, the applicant invokes violations of the applicable legislation and of the principle of non-discrimination. Furthermore, the applicant submits that its rights of defence have been violated and that the EMEA has violated the obligation to state reasons.

According to the applicant, the contested decision wrongfully applied the Judgment of the Court of First Instance in Case T-123/00 Thomae [1] to refuse the proposed name change. The applicant argues that the present case does not concern the question of whether different names can be used for the same medicinal product but the question of whether different names can be used for different medicinal products covered by the same MA. As a consequence, the applicant submits that the Judgment in Case T-123/00 does not apply nor can it be extended to apply in the present case.

The applicant claims furthermore that the EMEA has violated the principle of non-discrimination. According to the applicant, there is no objective justification to treat the Marketing Authorisation Holders whose two pharmaceutical forms are covered by the same MA and those whose two pharmaceutical forms are covered by two MA differently.

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[1] Judgement of 10.12.2002, Case T-123/00 Dr. Karl Thomae GmbH v Commission (not published yet).

Action brought on 14 April 2003 by Sniace, S.A. against the Commission of the European Communities

(Case T-141/03)

(2003/C 171/56)

(Language of the case: Spanish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the