

- Has not given due weight to the applicant's interest in receiving the requested documentation

Moreover, the applicant doesn't accept the Commission's contention that the Member States would have to be consulted in relation to the submissions made by them in the minutes. It is the applicant's position that, in accordance with Article 4(4) of Regulation (EC) 1049/2001, a consultation with a Member State shall take place only when it is not clear whether a document shall or shall not be disclosed. Furthermore, the final decision as to whether or not a document shall be released remains with the Commission, and this must be reasoned and clearly justified as falling within one of the exemptions provided for in the access regulation.

(¹) OJ L 291 of 6.12.1995, p. 40.

(²) Regulation (EC) No 1049/2001 of the European Parliament and the Council of 30 May 2001 regarding public access to European Parliament, Council and Commission documents (OJ L 145 of 31.5.2001, p. 43).

Action brought on 19 May 2003 by New Look Limited against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-171/03)

(2003/C 171/67)

(Language of the case: Spanish)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of First Instance of the European Communities on 19 May 2003 by New Look Limited, established in Weymouth, Dorset (United Kingdom), represented by R. Ballester and G. Marín, lawyers.

The applicant claims that the Court should:

- annul the decision of OHIM (First Board of Appeal) of 15 April 2003 in Case No R 019/2003-1;
- order OHIM and any intervener to pay the costs.

Pleas in law and main arguments

Applicant for Community trade mark:

The applicant.

Community trade mark sought:

Figurative mark NLCollection — Application No 1082809 for goods in Class 25 (articles of clothing, footwear and headgear).

Proprietor of mark or sign cited in the opposition proceedings:

NAUOVER SA

Mark or sign cited in opposition:

Figurative mark NL (Community trade mark No 13417 and Spanish trade mark No 1329084).

Decision of the Opposition Division:

Rejection of the opposition.

Decision of the Board of Appeal:

Annulment of the decision of the Opposition Division and acceptance of the opposition with respect to Community trade mark No 13417.

Pleas in law:

Misapplication of Article 8(1)(b) of Regulation (EC) No 40/94 (likelihood of confusion).

Action brought on 19 May 2003 by Anne Geddes against the Office for Harmonisation in the Internal Market

(Case T-173/03)

(2003/C 171/68)

(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 19 May 2003 by Anne Geddes, Auckland, New Zealand, represented by Mr G. Farrington, Solicitor.