

The applicant claims that the Court should:

- set aside the decision of the First Board of Appeal of OHIM of 9 July 2003 in Case R 0576/2002-1;
- refuse to register as a Community mark No 488.940 DAVID LLOYD in Class 25, and
- order the other party or parties to pay the costs.

*Pleas in law and main arguments*

The pleas in law and main arguments are those already put forward in Case T-341/03 *El Corte Inglés v OHIM*.

The Community trade mark which is the subject of the dispute is the mark 'DAVID LLOYD' (Application No 488.940, for goods in Classes 3, 5, 25, 28, 36, 41 and 42). The applicant, the marks cited in the opposition proceedings, the proprietor and the decisions of the Opposition Division and the Board of Appeal are identical to those referred to in that case.

**Action brought on 2 October 2003 by SAIWA S.p.A. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)**

(Case T-344/03)

(2003/C 304/59)

*(Language of the case: Italian)*

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 2 October 2003 by SAIWA S.p.A., represented by Giuseppe Sena, Paola Tarchini, Jean-Pierre Karsenty and Martine Karsenty-Ricard, lawyers. Barilla Alimentare S.p.A. was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul the decision of the Fourth Board of Appeal of OHIM of 18 July 2003 in Case R 480/2002-4; order that registration be refused in respect of Barilla's Community trade mark application No 289405; order the defendant to pay all the costs.

*Pleas in law and main arguments*

Applicant for Community trade mark:

Barilla Alimentare S.p.A.

Community trade mark sought:

Figurative mark including the words 'SELEZIONE ORO' and 'BARILLA' — Application No 289.405 for products in Class 30 (pasta, flour and preparations made from cereals, bread, pastry and confectionery, yeast, baking-powder, sauces).

Proprietor of mark or sign cited in the opposition proceedings:

The applicant.

Mark or sign cited in opposition:

Word marks 'ORO' (Italian trade mark No 307376 and international trade mark No 435773) and 'ORO SAIWA' (Italian trade mark No 332.864) for products in Class 30.

Decision of the Opposition Division:

Opposition refused.

Decision of the Board of Appeal:

Appeal dismissed.

Pleas in law:

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

**Action brought on 30 October 2003 by Frischpack GmbH & Co KG against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

(Case T-360/03)

(2003/C 304/60)

*(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 30 October 2003 by Frischpack GmbH & Co KG, Mailling (Germany), represented by P. Bornemann, lawyer.