In this regard, the applicant states that the assumption that Gibraltar is part of the United Kingdom, is wrong. According to the applicant, this is clear under domestic constitutional law, public international law and Community law.

The applicant furthermore submits that the Commission's regional selectivity principle cannot apply to Gibraltar. According to the applicant, the decision concerns two tax jurisdictions which are entirely separate and mutually exclusive so that Gibraltar's tax laws cannot be treated as derogations from tax law in the United Kingdom.

Secondly, the applicant submits that the Commission misapplied the law and committed errors in reasoning in finding that tax reform is materially selective. According to the applicant, the reform is of a general nature and represents a reasonable choice of economic policy by Gibraltar.

According to the applicant, the provisions that companies who make no profits are not taxed and that companies are not required to pay more than a specified maximum amount, are merely designed to avoid over-taxation and do not apply selectively to a particular group or category.

The applicant also claims that the Commission is wrong in stating in relation to the payroll tax and property tax not applying to companies without commercial buildings or employees in Gibraltar, that the reform exempts an offshore sector and is materially selective on hat ground. The applicant claims furthermore that the Commission breached essential procedural requirements in this regard because neither the United Kingdom nor the applicant were given an opportunity to comment on this issue during the formal investigation.

Finally, the applicant submits that the reform cannot be considered selective because its nature, general scheme and essential features are designed to suit the special characteristics of the economy in Gibraltar and in particular its limited size, scarcity of labour, service dominated industry and operational simplicity for a small administration.

([1]) State aid C 66 /2002 — Gibraltar government corporation tax reform

Action brought on 8 June 2004 by the Royal County of Berkshire Polo Club Ltd against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-214/04)

(2004/C 217/50)

(Language of the case to be determined pursuant to Article 131(2) of the Rules of Procedure Language in which the application was submitted: English)

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 8 June 2004 by the Royal County of Berkshire Polo Club Ltd, Windsor (United Kingdom), represented by J. H. Maitland Walker, Solicitor, and D. McFarland, Barrister.

The Polo/Lauren Company LP was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

— annul the decision of the First Board of Appeal of March 25, 2004 in case R 273/2002-1 rejecting the applicant's application

— order the Office to pay the costs

Pleas in law and main arguments:

Applicant for Community trade mark:	the applicant
Community trade mark sought:	Figurative mark 'ROYAL COUNTY OF BERKSHIRE POLO CLUB'for goods in class 3 (cleaning preparations etc.)
Proprietor of mark or sign cited in the opposition proceedings:	Polo Lauren Company LP
Mark or sign cited in opposition:	National figurative and work marks containing the word 'POLO'
Decision of the Opposition Division:	Opposition rejected
Decision of the Board of Appeal:	Decision of the opposition division annulled; registration refused
Pleas in law:	Violation of Article 8(1)(b) of Regulation 40/94 ([1]). The applicant argues that the signs in question are dissimilar.