

Action brought on 18 June 2004 by Caviar Anzali against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-252/04)

(2004/C 217/62)

(Language of the case: French)

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 18 June 2004 by Caviar Anzali, established in Colombes (France), represented by Jean-François Jésus, lawyer.

Novomarket S.A. was also a party to the proceedings before the Second Board of Appeal.

The applicant claims that the Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market of 19 April 2004 (Case R 479/2003-2, Caviar Anzali v Novomarket);
- order the Office for Harmonisation in the Internal Market to pay the costs.

Pleas in law and main arguments:

Applicant for Community trade mark:	Novomarket S.A.
Community trade mark sought:	Figurative mark 'Asetra' for, inter alia, goods in Classes 29 and 31 (Application No 2187805)
Proprietor of mark or sign cited in the opposition proceedings:	Caviar Anzali S.A.
Mark or sign cited in opposition.	National and international figurative mark 'Astara' for goods in Class 29
Decision of the Opposition Division:	Rejection of the opposition
Decision of the Board of Appeal:	Rejection of the appeal
Pleas in law:	The applicant claims that the nature of the system used before the Board of Appeal requires that the application be re-examined and that transmission of the translation after expiry of the time-limit set by the Opposition Division cannot lead to rejection of the opposition.

Action brought on 28 June 2004 by Mundipharma AG against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-256/04)

(2004/C 217/63)

(Language of the case to be determined pursuant to Article 131(2) of the Rules of Procedure - language in which the application was submitted: 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 28 June 2004 by Mundipharma AG, Basel (Switzerland), represented by F. Nielsen, lawyer.

Altana Pharma AG, Konstanz (Germany), was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market of 19 April 2004 (Case R 1004/2002-2);
- order the Office for Harmonisation in the Internal Market to pay the costs.

Pleas in law and main arguments:

Applicant for Community trade mark:	ALTANA Pharma AG
Community trade mark sought:	Word mark 'RESPICUR' for goods in Class 5 (Respiratory therapeutics) – Application No 949156
Proprietor of mark or sign cited in the opposition proceedings:	The applicant
Mark or sign cited in opposition.	German word mark 'RESPICORT' for goods in Class 5 (pharmaceutical preparations; preparations for medical purposes; plasters)
Decision of the Opposition Division:	Rejection of the opposition
Decision of the Board of Appeal:	Annulment of the decision of the Opposition Division and rejection of the opposition
Pleas in law:	Breach of Article 8(1)(b) of Regulation (EC) No 40/94.