

JUDGMENT OF THE COURT OF FIRST INSTANCE

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of 30 June 2004

of 13 July 2004

in Case T-107/02: GE Betz Inc. v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) ⁽¹⁾

(Community trade mark — Opposition procedure — Earlier figurative mark — Application for Community word mark BIOMATE — Failure to produce evidence in the language of the opposition proceedings — Legitimate expectation — Rules 16, 17 and 18 of Regulation (EC) No 2868/95)

(2004/C 239/34)

(Language of the case: English)

In Case T-107/02: GE Betz Inc., formerly BetzDearborn Inc., whose registered office is in Trevose, Pennsylvania (United States of America), represented by G. Glas and K. Manhaeve, lawyers, with an address for service in Luxembourg, against Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: initially E. Joly and subsequently G. Schneider), the other party to the proceedings before the OHIM Board of Appeal, being Atofina Chemicals Inc., whose registered office is in Philadelphia, Pennsylvania (United States of America), represented by M. Edenborough, barrister, and M. Medycky, solicitor — action brought against the decision of the First Board of Appeal of OHIM of 17 January 2002 (Case R 1003/2000-1), relating to opposition proceedings between Atofina Chemicals Inc. and GE Betz Inc. — the Court of First Instance (Second Chamber), composed of N.J. Forwood, President, J. Pirrung and A.W.H. Meij, Judges; J. Plingers, Administrator, for the Registrar, has given a judgment on 30 June 2004, in which it:

1. *Annuls the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 17 January 2002 (Case R 1003/2000-1) in so far as it annuls the decision of the Opposition Division of 7 September 2000, remits the case to the Opposition Division for further prosecution and orders each party to bear the costs which they have incurred in connection with the proceedings before the Board of Appeal;*
2. *Orders the Office to pay the costs incurred by the applicant, including those incurred by it in connection with the proceedings before the Board of Appeal;*
3. *Orders the intervener to bear its own costs.*

⁽¹⁾ OJ C 169 of 13.7.2002.

in Case T-115/02: AVEX Inc v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) ⁽¹⁾

(Community trade mark — Opposition procedure — Application for a Community figurative mark comprising the letter 'a' — Earlier Community figurative mark comprising the letter 'a' — Likelihood of confusion)

(2004/C 239/35)

(Language of the case: German)

In Case T-115/02: AVEX Inc., established in Tokyo (Japan), represented by J. Hofmann, lawyer, against Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: D. Schennen and G. Schneider), the other party to the proceedings before the Board of Appeal of OHIM and the intervener before the Court of First Instance being Ahlers AG, formerly Adolf Ahlers AG, established in Herford (Germany), represented by E.P. Krings, lawyer — action brought against the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 11 February 2002 (Case R 634/2002-1) relating to the opposition filed by the proprietor of the Community figurative mark comprising the letter 'a' against registration of a Community figurative mark comprising the letter 'a' — the Court of First Instance (Second Chamber), composed of J. Pirrung, President, A.W.H. Meij and N.J. Forwood, Judges; I. Natsinas, Administrator, for the Registrar, has given a judgment on 13 July 2004, in which it:

1. *Dismisses the application;*
2. *Orders the applicant to pay the costs.*

⁽¹⁾ OJ C 144 of 15.6.2002.