

Action brought on 23 April 2004 by Mühlens GmbH & Co. KG against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-150/04)

(2004/C 239/55)

(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 23 April 2004 by Mühlens GmbH & Co. KG, Cologne (Germany) represented by T. Schulte-Beckhausen, lawyer.

Minoronzoni S.r.l., Ponte San Pietro (Bergamo), (Italy), 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 the defendant of 18 February 2004 (Case R 949/2001-1);
- order the defendant to pay the costs.

Pleas in law and main arguments:

Applicant for Community trade mark: Minoronzoni S.r.l.

Community trade mark sought: Figurative mark 'TOSCA BLU' for goods in Classes 18 and 25 (including bags; handbags; travelling bags; clothing for men, women and children in general) – Application No 1 008 291

Proprietor of mark or sign cited in the opposition proceedings: The applicant

Mark or sign cited in opposition: German word mark 'TOSCA' for perfumery products (including 'Parfum', 'Eau de Toilette' and 'Eau de Parfum pour femmes')

Decision of the Opposition Division: Opposition rejected

Decision of the Board of Appeal: Applicant's appeal dismissed

Pleas in law:

- The opposition based on the well-known mark 'TOSCA' is well founded under Article 8(1)(b) of Regulation No 40/94.
- There is a likelihood of confusion between the opposing names.
- The opposing goods are similar.
- There is a likelihood of confusion within the meaning of Article 8(1)(b) of Regulation (EC) No 40/94.
- The opposition is entitled to

Action brought on 7 June 2004 by Dominique Hardy against the Council of the European Union and the Commission of the European Communities

(Case T-208/04)

(2004/C 239/56)

(Language of the case: French)

An action against the Council of the European Union and the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 7 June 2004 by Dominique Hardy, whose place of business is in Coudeville-plage (France), represented by Jean-François Péri-caud, lawyer.

The applicant claims that the Court should:

hold that the European Community has become liable to her by the adoption, and then application, to the detriment of ship's agents (agents maritimes), of Article 5 of the Community Customs Code in an unlawful manner;