

— annul the decision in order that a new and accurate comparison of the signs and goods which they identify may be carried out, regard being had to the high degree of visual and phonetic similarity between 'YUPI' and 'YUKI', as well as the fact that many of the goods which they designate are identical or almost identical.

*Pleas in law and main arguments:*

Applicant for Community trade mark:	QUIMI ROMAR S.L.
Community trade mark sought:	Word mark 'YUKI' — Application No 1.353.515 for goods in classes 3, 5 and 28.
Proprietor of mark or sign cited in the opposition proceedings:	The applicant.
Mark or sign cited in opposition.	The Spanish word mark 'YUPI' (No 246.715) for goods in class 3 (all types of perfumery, waxes, essential oils and dentifrices).
Decision of the Opposition Division:	Opposition upheld in part in respect of the goods against which it was directed: i.e. 'soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices' (class 3) and 'pharmaceutical and sanitary preparations' (class 5)
Decision of the Board of Appeal:	Upheld the appeal brought by the applicant for the trade mark, annulled the contested decision in so far as it upheld the opposition in respect of 'soaps, perfumery, essential oils, cosmetics, hair lotions, dentifrices' (class 3) and 'pharmaceutical and sanitary preparations' (class 5) and rejected the case of the opposing party.
Pleas in law:	Incorrect interpretation of Article 8(1)(b) of Regulation (EC) No 40/94.

**Action brought on 9 July 2004 by the Italian Republic against the Commission of the European Communities**

**(Case T-282/04)**

(2004/C 251/44)

*(Language of the case: Italian)*

An action against the Commission of the European Communities was brought before the Court of First Instance of the

European Communities on 9 July 2004 by the Italian Republic, represented by Gianni De Bellis, avvocato dello Stato.

The applicant claims that the Court should:

- annul Commission Decision C(2004) 1706 final of 24 April 2004 'which excludes from Community financing certain expenditure incurred by the Member States in respect of the Guarantee section of the European Agricultural Guidance and Guarantee Fund (EAGGF)' in part in so far as it
- makes a specific adjustment of EUR 19 058 682 for Rural Development — Measure (b) 'Settlement of Young Farmers' of the Rural Development Programme for the Region of Tuscany
- makes a flat-rate adjustment of 2% of the sum of EUR 2 758 501 relating to the supply of food aid for the needy
- order the Commission of the European Communities to pay the costs.

*Pleas in law and main arguments:*

The expenditure excluded from Community financing by the contested decision, as regards the applicant, relates to the 'Settlement of Young Farmers' measure provided for in the document on the planning of rural development in the Region of Tuscany, approved by Decision C(2000) 2510 of 7 September 2000, and the flat-rate adjustment of 2% applied to the supply of food aid for the needy which, according to the Commission, does not offer a system of checks with sufficient safeguards.

In support of its claim, the applicant pleads:

- As regards the 'Settlement of Young Farmers' measure, infringement of Articles 2 and 3 of Council Regulation (EEC) No 729/70 <sup>(1)</sup>, of Articles 35 and 37 of Council Regulation (EC) No 1750/99 <sup>(2)</sup>, of Article 2(1) of Council Regulation (EC, Euratom) No 2988/95 <sup>(3)</sup>, as well as of the principles concerning financial adjustments.
- As regards the supply of food aid for the needy, the infringement of Articles 2 and 3 of Regulation (EC) No 729/70, already cited.

<sup>(1)</sup> Regulation (EEC) No 729/70 of the Council of 21 April 1970 on the financing of the common agricultural policy (OJ, English Special Edition, Series II Chapter 1970(I), p. 218).

<sup>(2)</sup> Commission Regulation (EC) No 1750/1999 of 23 July 1999 laying down detailed rules for the application of Council Regulation (EC) No 1257/1999 on support for rural development from the European Agricultural Guidance and Guarantee Fund (EAGGF) (OJ L 214 of 13.8.1999, p. 31).

<sup>(3)</sup> Council Regulation (EC, Euratom) No 2988/95 of 18 December 1995 on the protection of the European Communities' financial interests (OJ L 312 of 23.12.1995, p. 1).