

Concerning the Commission's refusal to grant access to the costs of the construction items the applicant submits that the Commission mistakenly considered that this application did not constitute an application for access to documents and thus violated Articles 7 and 8 of Regulation 1049/2001.

Finally, the applicant invokes a manifest lack of good faith and a violation of the principle of good administration by the Commission, which failed to indicate, in its contested decision, when it expected to be in possession of the sub-contracts.

<sup>(1)</sup> OJ L 145 of 31.5.2001, p. 43 - 48.

<sup>(2)</sup> OJ L 345 of 29.12.2001, p. 94 - 98.

Trade mark or sign asserted by way of opposition: national word and figurative mark 'CLEN'

Decision of the Opposition Division: rejection of notice of opposition

Decision of the Board of the Appeal: dismissal of the appeal

Pleas in law: incorrect application of Article 8(1)(b) of Regulation (EC) No 40/94 <sup>(1)</sup>

<sup>(1)</sup> Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark – OJ L 11, 14.01.1994, pp. 1-36

**Action brought on 22 September 2004 by RB Square Holdings Spain S.L. against the Office for Harmonisation in the Internal Market**

(Case T-384/04)

(2004/C 300/91)

*(Language in which the application was drafted: French)*

An action against the Office for Harmonisation in the Internal Market was brought before the Court of First Instance of the European Communities on 22 September 2004 by RB Square Holdings Spain S.L., established in Barcelona (Spain), represented by K. Manhaeve, lawyer, with an address for service in Luxembourg.

Unelko N.V. was also a party to the proceedings before the Fourth Board of Appeal.

The applicant claims that the Court should:

- annul Decision R 652/2002-4 of the Fourth Board of Appeal of the Office
- order the Office to pay all the costs.

*Pleas in law and main arguments:*

Applicant for the Community trade mark:	Unelko N.V.
Community trade mark concerned:	figurative mark 'clean x' — Application No 222 471, filed for goods in Class 3 (bleaching preparations, etc.)
Proprietor of the mark or sign asserted by way of opposition in the opposition proceedings:	the applicant

**Action brought on 23 September 2004 by the Federal Republic of Germany against the Commission of the European Communities**

(Case T-389/04)

(2004/C 300/92)

*(Language of the case: German)*

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 23 September 2004 by the Federal Republic of Germany, represented by C.-D. Quassowski, acting as Agent, and G. Quardt, lawyer.

The applicant claims that the Court should:

- annul Commission Decision C(2004)2641 of 14 July 2004 on restructuring aid for MobilCom, insofar as the Commission thereby requires Germany to ensure that MobilCom and all companies in its group close their Online-Shops for the direct online sale of MobilCom mobile telephone contracts for the period of seven months, that for that period of closure of the Online-Shops the direct online sale of MobilCom mobile telephone contracts via the MobilCom Shops website is also discontinued, that MobilCom and companies in its group take no other steps to circumvent those conditions and that clients are not transferred directly via an automatic link on the relevant website to a sales partner;
- order the Commission to pay the costs.