

JUDGMENT OF THE COURT OF FIRST INSTANCE

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of 10 November 2004

of 9 November 2004

in Case T-164/02: Kaul GmbH v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) ⁽¹⁾

in Joined Cases T-285/02 and T-395/02 Eva Vega Rodríguez v Commission of the European Communities ⁽¹⁾

(Community trade mark — Opposition proceedings — Application for Community word mark ARCOL — Earlier Community word mark CAPOL — Scope of the assessment conducted by the Board of Appeal — Assessment of evidence adduced before the Board of Appeal)

(Officials — Open competition — Multiple-choice questions — Accuracy of the answers in the marking sheet — Judicial scrutiny — Limits)

(2005/C 19/45)

(2005/C 19/46)

*(Language of the case: German)**(Language of the case: French)*

In Case T-164/02: Kaul GmbH, established in Elmshorn (Germany), represented by G. Württenberger and R. Kunze, lawyers, against Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: A. von Mühlendahl and G. Schneider) the other party to the proceedings before the OHIM Board of Appeal having been Bayer AG, established in Leverkusen (Germany), – action brought against the decision of the Third Board of Appeal of OHIM of 4 March 2002 (Case R 782/2000-3), relating to opposition proceedings between Kaul GmbH and Bayer AG – the Court of First Instance (Fourth Chamber), composed of H. Legal, President, M. Vilaras and I. Wiszniewska-Białecka, Judges; D. Christensen, Administrator, for the Registrar, has given a judgment on 10 November 2004, in which it:

1. Annuls the decision of 4 March 2002 (Case R 782/2000-3) of the Third Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM);
2. Orders OHIM to pay the costs.

In Joined Cases T-285/02 and T-395/02, Eva Vega Rodríguez, residing in Brussels (Belgium), represented in Case T-285/02 by J. Iturriagoitia Bassas and, in Case T-395/02, by J. Iturriagoitia Bassas and K. Delvolvé, lawyers, against Commission of the European Communities (Agent: J. Currall, with an address for service in Luxembourg) – applications, primarily, for annulment of the decision of the selection board in competition COM/A/10/01 excluding the applicant and awarding an insufficient number of marks for her to continue in the competition and of the decision rejecting her complaint and, in the alternative, for damages – 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 9 November 2004, in which it:

1. Dismisses the actions;
2. Orders each party to bear its own costs.

⁽¹⁾ OJ C 180 of 27.2.2002.

⁽¹⁾ OJ C 289 of 23.11.2002.