

## JUDGMENT OF THE COURT OF FIRST INSTANCE

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of 15 February 2005

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**in Case T-296/02 Lidl Stiftung & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) <sup>(1)</sup>**

**in Case T-57/03 Société provençale d'achat et de gestion (SPAG) SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) <sup>(1)</sup>**

*(Community trade mark — Opposition — Likelihood of confusion — Application for Community word mark LINDENHOF — Earlier word and figurative mark LINDERHOF — Article 8(1)(b) of Regulation (EC) No 40/94)*

*(Community mark — Opposition proceedings — Application for Community word mark HOOLIGAN — Earlier word marks OLLY GAN — Matters of fact or of law outside OHIM's jurisdiction — Admissibility — Likelihood of confusion)*

(2005/C 93/51)

(2005/C 93/52)

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

In Case T-296/02: Lidl Stiftung & Co. KG, established in Neckarsulm (Germany), represented by P. Groß, lawyer, against Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: A. von Mühlendahl, B. Müller and G. Schneider), the other party to the proceedings before the Board of Appeal of OHIM, intervener before the Court of First Instance, being REWE-Zentral AG, established in Cologne (Germany), represented by M. Kinkeldey, lawyer — action against the decision of the Third Board of Appeal of OHIM of 17 July 2002 (Case R 0036/2002-3), relating to opposition proceedings between Lidl Stiftung & Co. KG and REWE-Zentral AG — 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, gave a judgment on 15 February 2005, in which it:

1. Dismisses the action;
2. Orders the applicant to pay the costs.

<sup>(1)</sup> OJ C 289, 23.11.2002.

In Case T-57/03: Société provençale d'achat et de gestion (SPAG) SA, established in Marseille (France), represented by K. Manhaeve, lawyer, with an address for service in Luxembourg, against Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: U. Pfléghar and G. Schneider), the other parties to the proceedings before the OHIM Board of Appeal, intervening before the Court of First Instance, being Frank Dann and Andreas Backer, residing in Frankfurt-am-Main (Germany), represented by P. Baronikians, lawyer — action brought against the decision of 5 December 2002 of the Second Board of Appeal of OHIM (Case R 1072/2000-2), relating to opposition proceedings concerning the marks HOOLIGAN and OLLY GAN — the Court of First Instance (Second Chamber), composed of J. Pirrung, President, N.J. Forwood and S. Papasavvas, Judges; J. Palacio González, Principal Administrator, for the Registrar, has given a judgment on 1 February 2005, in which it:

1. Dismisses the action;
2. Orders the applicant to pay the costs.

<sup>(1)</sup> OJ C 112 of 10.5.2003.