In support of its claims, the applicant alleges:

— breach of various rules of the ESA 1995 on the classification of institutional units as 'market' or 'non-market' entities;

— breach of the principle of legitimate expectations, in so far as the contested decision presumes a radical change in the position of Eurostat concerning the classification adopted by that body *vis-à-vis* MINTRA by letter of 14 February 2003, a reclassification which resulted from a declaration of Eurostat to the same effect in a very similar case, that of the Austrian public entity Bundesimmobiliengesellschaft. Significant, in that regard, is the fact that the decision has extremely serious financial consequences for the applicant and for MINTRA, since the debt of that public entity will be incorporated in the accounts of the Comunidad de Madrid. Furthermore, MINTRA could be obliged to rescind the contracts already entered into in connection with the plan to expand the metropolitan railway network, which the Comunidad de Madrid undertook on the basis of the classification of February 2003;

— breach of the obligation to state reasons, in that, among other reasons, the contested decision lacks any reference to its legal basis and to the specific factual elements on which it is based.

([1]) OJEC L 310 of 30.11.1996, p. 1.

Action brought on 18 April 2005 by Markku Sahlstedt, Juha Kankkunen, Mikko Tanner, Toini Tanner, Liisa Tanner, Eeva Jokinen, Aili Oksanen, Olli Tanner, Leena Tanner, Aila Puttonen, Risto Tanner, Tom Järvinen, Runo K. Kurko, Maa- ja metsätaloustuottajain keskusliitto MTK ry and MTK:n säätiö against the Commission of the European Communities

(Case T-150/05)

(2005/C 143/78)

(Language of the case: Finnish)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 18 April 2005 by Markku Sahlstedt, Juha Kankkunen, Mikko Tanner, Toini Tanner, Liisa Tanner, Eeva Jokinen, Aili Oksanen, Olli Tanner, Leena Tanner, Aila Puttonen, Risto Tanner, Tom Järvinen, Runo K. Kurko, Maa- ja metsätaloustuottajain keskusliitto MTK ry and MTK:n säätiö, represented by Kari Marttinen, lawyer.

The applicants claim that the Court should:

— annul the contested decision ([1]) in its entirety;

— in the alternative, if it does not regard that as possible, annul the contested decision in so far as it concerns all the sites in the Republic of Finland included in the decision;

— in the further alternative, if it does not regard that as possible either, annul the decision as regards the sites specified in part 6.2.2.7;

— order the Commission to pay the costs in full with statutory interest.

Pleas in law and main arguments

According to the applicants, the decision is contrary to Community law, in particular Article 4 of the Nature Directive and Annex III referred to there. The argument that the decision is contrary to Community law rests on three principal pleas in law:

(a) Under Article 3 of the nature directive, the Natura 2000 network is a coherent European network of protected sites. The coherence of the network is ensured and the objective of a favourable level of protection attained by the fact that Article 4 of and Annex III to the directive, concerning the choice of sites, are binding on both the Member States and the Commission. Sites may not be chosen without complying with those provisions and not by preliminary decisions or partial decisions. The sites are to be chosen by uniform criteria for all Member States;

(b) Stages 1 (the Member State stage) and 2 (the Commission stage) of Annex III form a whole which consists of measures having legal effect. The procedure in stage 2 and the decision on sites of Community importance are not in accordance with the directive if the proposal in stage 1 does not fulfil the requirements of the directive;

(c) The Commission must in connection with stage 2, together with the Member States, coordinate the proposals of the Member States and make changes to the boundaries concerning each biogeographical region, as a consequence of a more extensive examination than the Member State's as regards the favourable level of protection.

Finland's stage 1 proposal of sites, from which the sites of Community importance were chosen by the Commission decision in accordance with the third subparagraph of Article 4(2) of the directive, is contrary to the nature directive's mandatory selection criteria for the choice of sites.

The Commission is obliged to ensure that the sites included in the Member State's proposal satisfy the biogeographical requirements required for the inclusion of sites in the decision to be made after stage 2. The Commission thus may not, without a proper examination of the biogeographical data, approve a proposed site for entry in the list of sites of Community importance.

(1) Commission Decision 2005/101/EC of 13 January 2005 adopting, pursuant to Council Directive 92/43/EEC, the list of sites of Community importance for the Boreal biogeographical region, OJ L 40, 11.2.2005, p. 1.

Action brought on 18 April 2005 by John Arthur Slater against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-152/05)

(2005/C 143/79)

(Language in which the application was lodged: English)

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 18 April 2005 by John Arthur Slater, residing in London (United Kingdom), represented by M. J. Gilbert, Solicitor.

Prime Restaurant Holdings, Inc., established in Mississanga, Ontario (Canada) was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

— annul the decision of the Fourth Board of Appeal dated 13 December 2004 in Case R 582/2003-4;

— dismiss Prime Restaurant Holdings, Inc's request for a declaration of invalidity in respect of Community trade mark registration No 447730;

— order the Office and other parties to bear their own costs and pay those of the applicant in this application, in appeal No R582/2003-4 and in cancellation proceedings No 232C000447730/1.

Pleas in law and main arguments

Registered Community trade mark subject of the application for a declaration of invalidity:	The word mark EAST SIDE MARIO'S for goods and services in classes 25, 26 and 42 — Community trade mark No 447730
Proprietor of the Community trade mark:	John Arthur Slater
Party requesting the declaration of invalidity of the Community trade mark:	Prime Restaurant Holdings, Inc.
Rights of the applicant for a declaration of invalidity:	The national word and figurative marks EAST SIDE MARIO'S
Decision of the Cancellation Division:	Invalidity of the Community trade mark
Decision of the Board of Appeal:	Dismissal of the appeal
Pleas in law:	Violation of Article 51(1)(b) of Council Regulation No 40/94. According to the applicant, the Board erred in finding that the applicant acted for a third person who should be considered to be the applicant for the trade mark, that this third person acted in bad faith and that there is unfair practice.

Removal from the Register of Case T-176/00 (1)

(2005/C 143/80)

(Language of the case: Dutch)

By order of 11 March 2005, the President of the Fourth Chamber of the Court of First Instance of the European Communities has ordered the removal from the Register of Case T-176/00, Cargill B.V. v Commission of the European Communities.

(1) OJ C 285 of 7.10.2000.