

*Decision of the Opposition Division:* Opposition upheld in relation to the contested goods in class 24

*Decision of the Board of Appeal:* Dismissal of the appeal

*Pleas in law:* The conflicting trade marks have no similarities from a visual, phonetic and conceptual point of view for Spanish, French or English speaking consumers. The fact that the earlier trade mark and the trade mark applied for cover the same products does therefore not create a risk of confusion in the mind of the public.

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**Appeal brought on 7 September 2006 by Carlos Sanchez Ferriz against the judgment of the Civil Service Tribunal delivered on 28 June 2006 in Case F-19/05 Sanchez Ferriz v Commission**

(Case T-247/06 P)

(2006/C 261/51)

*Language of the case:* French

#### Parties

*Appellant:* Carlos Sanchez Ferriz (Brussels, Belgium) (represented by F. Frabetti, lawyer)

*Other party to the proceedings:* Commission of the European Communities

#### Form of order sought by the appellant

- set aside the judgment of the Civil Service Tribunal of 28 June 2006 in Case F-19/05;
- give a ruling on costs, fees and disbursements and order the Commission to pay them.

#### Pleas in law and main arguments

In his appeal, the appellant claims that the Tribunal committed procedural irregularities when it considered the plea alleging infringement of the principle of non-discrimination in that it failed to examine the substance of the case of alleged discrimination in the application of the rule establishing a weighting of the points in a career development report, as raised by the appellant in his action.

**Action brought on 11 September 2006 — Professional Golfers' Association v OHIM — Ladies Professional Golf Association (LPGA)**

(Case T-248/06)

(2006/C 261/52)

*Language in which the application was lodged:* English

#### Parties

*Applicant:* The Professional Golfers' Association Limited (Sutton Coldfield, United Kingdom) (represented by: D. McFarland, Barrister)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

*Other party to the proceedings before the Board of Appeal:* Ladies Professional Golf Association (Corporation) (Daytona Beach, USA)

#### Form of order sought

- Annul the decision of the Second Board of Appeal of OHIM of 11 July 2006 in Case number R1087/2005-2 in its entirety on the grounds that Articles 73 and 74 of Council Regulation No 40/94 were breached; and
  - order the case to be referred back to the Board of Appeal and be reheard by a different panel of judges from those who deliberated in the decision issued on 11 July 2006;
- or, in the alternative, if the Court finds that Articles 73 and 74 of Council Regulation 40/94 were not breached:
- overturn the decision of the Second Board of Appeal of OHIM of 11 July 2006 in Case number R1087/2005-2 and find in favour of The Professional Golfers' Association Limited;
- and
- order that the costs of the proceedings be borne by the defendant.

#### Pleas in law and main arguments

*Applicant for the Community trade mark:* Ladies Professional Golf Association Corp.

*Community trade mark concerned:* The figurative mark 'LPGA' for goods and services in classes 25, 28 and 41 — application No 2 354 173

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited:* The Community word mark 'PGA' for goods and services in classes 16, 25, 28, 37, 41 and 42

*Decision of the Opposition Division:* Rejection of the opposition in its entirety

*Decision of the Board of Appeal:* Dismissal of the appeal