

Re:

Application for partial annulment of the applicant's career development report for the assessment period 2001-2002 and an application for the payment of EUR 30 000 in damages for the non-material damage alleged.

Operative part of the judgment

The Court:

1. *Annuls the decision adopting the applicant's career development report for the period from 1 July 2001 to 31 December 2002.*
2. *Dismisses the remainder of the application.*
3. *Orders the Commission to pay the costs.*

(¹) OJ C 156, 12.06.2004.

Judgment of the Court of First Instance of 7 September 2006 — L & D v OHIM — Sämann (Aire Limpio)

(Case T-168/04) (¹)

(Community trade mark — Opposition proceedings — Earlier figurative marks representing a fir tree including, in certain cases, verbal elements — Application for figurative mark containing the verbal element 'Aire Limpio' — Likelihood of confusion — Article 8(1)(b) and Article 73 of Regulation (EC) No 40/94)

(2006/C 281/52)

Language of the case: Spanish

Parties

Applicant: L & D, SA (Huerca de Almería, Spain) (represented by: initially, M. Knospe, and, subsequently, S. Miralles Miravet and A. Castedo García, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: J. García Murillo, Agent)

Other party to the proceedings before the Board of Appeal of OHIM, intervening before the Court of First Instance: Julius Sämann Ltd (Zug, Switzerland) (represented by: A. Castán Pérez Gómez and E. Armijo Chávarri, lawyers)

Re:

Application for partial annulment of the decision of the Second Board of Appeal of OHIM of 15 March 2004 (Case R 326/2003-2) relating to opposition proceedings between Julius Sämann Ltd and L & D, SA.

Operative part of the judgment

The Court:

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

(¹) OJ C 273, 6.11.2004.

Judgment of the Court of First Instance of 4 October 2006 — Freixenet v OHIM (Shape of a frosted matt black bottle)

(Case T-188/04) (¹)

(Community trade mark — Shape of a frosted matt black bottle — Absolute ground of refusal — Article 7(1)(b) of Regulation (EC) No 40/94 — Lack of distinctive character — Infringement of the rights of the defence — Article 73 of Regulation No 40/94)

(2006/C 281/53)

Language of the case: French

Parties

Applicant: Freixenet, SA (Sant Sadurní d'Anoia, Spain) (represented by: F. de Visscher, E. Cornu, É. De Gryse and D. Moreau, lawyers)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: I. de Medrano Caballero, Agent)

Re:

Action for annulment of the decision of the Fourth Board of Appeal of OHIM of 11 February 2004 (Case R 97/2001-4) concerning registration of a mark in the form of a frosted matt black bottle as a Community trade mark

Operative part of the judgment

The Court:

1. *Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 11 February 2004 (Case R 104/2001-4);*
2. *Dismisses the remainder of the action;*
3. *Orders OHIM to bear its own costs and to pay those of the applicant.*

(¹) OJ C 201, 7.8.2004.