

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation (EC) 40/94 <sup>(1)</sup> and of the principles to be applied under this provision to examine whether there is a likelihood of confusion.

<sup>(1)</sup> Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

**Action brought on 18 January 2008 — Bastos Viegas v OHIM — Pierre Fabre Médicament (OPDREX)**

(Case T-33/08)

(2008/C 79/60)

*Language in which the application was lodged:* Spanish

**Parties**

*Applicant:* Bastos Viegas, AS (Penafiel, Portugal) (represented by: G. Marín Raigal and P. López Ronda, lawyers)

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

*Other party to the proceedings before the Board of Appeal of OHIM:* Pierre Fabre Médicament, S.A.

**Form of order sought**

- Annul the Decision of the Fourth Board of Appeal of OHIM of 14 November 2007 (Case R 1238/2006-4) so as to dismiss the opposition lodged by Pierre Fabre and grant Community trade mark application No 2 429 249 'OPDREX' (figurative) and order the opponent to pay the costs of both proceedings;
- Order the defendant to bear its own costs and to pay the costs of the applicant;
- Order the intervener to bear its own costs and to pay the costs of the applicant in these proceedings

**Pleas in law and main arguments**

*Applicant for a Community trade mark:* The applicant.

*Community trade mark concerned:* Figurative mark 'OPDREX' (application for registration No 2 429 249, for goods in Classes 5 and 10 and services in Class 35).

*Proprietor of the mark or sign cited in the opposition proceedings:* Pierre Fabre Médicament, S.A.

*Mark or sign cited in opposition:* National word mark 'OPTREX' for goods in Class 5 (pharmaceutical goods).

*Decision of the Opposition Division:* Upholding in part of the opposition, in respect of certain goods in Classes 5 and 10.

*Decision of the Board of Appeal:* Annulment of the contested decision, in so far as it rejects the Community trade mark application in respect of 'surgical apparatus and instruments' in Class 10.

*Pleas in law:* Incorrect application of Article 8(1)(b) of Regulation (EC) No 40/94 on the Community trade mark.

**Action brought on 21 January 2008 — Berliner Institut für Vergleichende Sozialforschung v Commission**

(Case T-34/08)

(2008/C 79/61)

*Language of the case:* German

**Parties**

*Applicant:* Berliner Institut für Vergleichende Sozialforschung e.V. (Berlin, Germany) (represented by: B. Henning, lawyer)

*Defendant:* Commission of the European Communities

**Form of order sought**

- Annul the Commission's decision of 16 November 2007 disallowing part of the applicant's costs in the context of the 'Daphne Grant Agreement JAI/DAP/2004-2/052/W';
- order the defendant to pay the costs.

**Pleas in law and main arguments**

In May 2005, the applicant and the Commission signed an agreement on support for a project in connection with the Daphne II programme <sup>(1)</sup>. By letter of 16 November 2007, the defendant sent the applicant a revised calculation of the payment to the applicant that was still outstanding, in which part of the applicant's costs were deemed to be ineligible for support. The applicant brought the present action against that decision.