*Mark or sign cited in opposition:* Word mark PROMINA for goods and services in Class 7 (German trade mark No 847 011)

*Decision of the Opposition Division:* Rejection of the opposition

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

*Pleas in law:* Infringement of Article 8(1)(b) of Regulation (EC) No 40/94 ([1]) as the Office for Harmonisation in the Internal Market was incorrect to take as a basis that the goods were not similar.

([1]) Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ L 11, 14.1.1994, p. 1).

## Action brought on 6 February 2008 — *Now Pharma* v *Commission*

**(Case T-74/08)**

(2008/C 92/85)

*Language of the case: German*

### Parties

*Applicant:* Now Pharma AG (Luxembourg, Luxembourg) (represented by: C. Kaletta and I.J. Tegebauer, Rechtsanwälte)

*Defendant:* Commission of the European Communities

### Form of order sought

The Court is asked to:

— annul Commission Decision C(2007) 6132 of 4 December 2007;

— hold that the Commission should take a new decision in relation to the applicant's application of 6 February 2007, taking into consideration the Court's view of the law;

— order the defendant to pay the costs of the proceedings.

### Pleas in law and main arguments

The applicant challenges the Commission's Decision of 4 December 2007 refusing the applicant's request for designation of the medicinal product 'Extrait liquide spécial de Chelidonii radix' ('Chelidonii radix special liquid extract') as an orphan medicinal product within the meaning of Regulation (EC) No 141/2000 ([1]).

In support of its application, the applicant submits that the contested decision infringes Article 3 of Regulation No 141/2000. In this respect, the applicant submits, in particular, that the final negative opinion of the European Medicines Agency was based on a wrong standard, namely the requirements for marketing authorisation in respect of a medicinal product pursuant to Article 8(3)(c) of Regulation No 141/2000. However, according to the applicant, whether a medicinal product is to be designated as an orphan medicinal product depends on whether the medicinal product will be of significant benefit to those affected by the particular condition, within the meaning of Article 3(2) of Regulation (EC) No 847/2000 ([2]). According to the applicant, the requirements of Article 3(1)(b) of Regulation No 141/2000 are fulfilled, because the medicinal product constitutes an orphan medicinal product and will be of significant benefit.

In addition, the applicant takes issue with the lack of qualifications and the bias of the expert.

([1]) Regulation (EC) No 141/2000 of the European Parliament and of the Council of 16 December 1999 on orphan medicinal products (OJ 2000 L 18, p. 1).

([2]) Commission Regulation (EC) No 847/2000 of 27 April 2000 laying down the provisions for implementation of the criteria for designation of a medicinal product as an orphan medicinal product and definitions of the concepts similar medicinal product and clinical superiority (OJ 2000 L 103, p. 5).

## Action brought on 22 February 2008 — Centre de coordination Carrefour v Commission

**(Case T-94/08)**

(2008/C 92/86)

*Language of the case: French*

### Parties

*Applicant:* Centre de coordination Carrefour SNC (Brussels, Belgium) (represented by: X. Clarebout and K. Platteau, lawyers)

*Defendant:* Commission of the European Communities

### Form of order sought

— Annul the contested decision in as much as it does not lay down a transitional period as required by the *Forum 187* ([1]) judgment;

— order the Commission to pay the costs.

### Pleas in law and main arguments

By decision 2003/755/EC of 17 February 2003, the Commission and declared the aid scheme implemented by Belgium in favour of coordination centres established in Belgium incompatible with the internal market ([2]). That decision was annulled by judgment of the Court of 22 June 2006 ([3]) ('the judgment in *Belgium and Forum 187* v *Commission*') in that it did not provide for transitional measures with regard to certain of the