

COURT OF FIRST INSTANCE

Judgment of the Court of First Instance of 16 March 2009 — R v Commission

(Case T-156/08 P) ⁽¹⁾

(Appeal — Staff case — Probationary officials — Probation report — No act adversely affecting the applicant — Time-limit for initiating proceedings — Lateness)

(2009/C 102/28)

Language of the case: French

Parties

Appellant: R (Brussels, Belgium) (represented by: Y. Minatchy, avocat)

Other party to the proceedings: Commission of the European Communities (represented by: D. Martin and K. Herrmann, Agents)

Re:

Appeal brought against the order of the European Union Civil Service Tribunal (First Chamber) of 19 February 2008 in Case F-49/07 R v Commission, not yet published in the ECR, requesting that that order be set aside.

Operative part of the judgment

The Court:

1. Dismisses the appeal;
2. Orders R to pay his own costs as well as those incurred by the Commission in the context of the present appeal.

⁽¹⁾ OJ C 171, 5.7.2008.

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

Form of order sought

— Annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 27 November 2008 in Case R 1094/2008-1;

— order the defendant to pay the costs.

Pleas in law and main arguments

Community trade mark concerned: Word mark 'diegesellschafter.de' for services in Classes 35 and 41 (application No 4 606 372)

Decision of the Examiner: Rejection of the application

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Breach of Article 7(1)(b) and (c) of Regulation (EC) NO 40/94, ⁽¹⁾ since the marks cited have the required distinctive character and there is no requirement to keep the mark free.

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

Action brought on 9 February 2009 — Deutsche Behindertenhilfe — Aktion Mensch v OHIM

(Case T-47/09)

(2009/C 102/29)

Language in which the application was lodged: German

Parties

Applicant: Deutsche Behindertenhilfe — Aktion Mensch (Mainz, Germany) (represented by V. Töbelmann and A. Piltz, lawyers)

Action brought on 13 February 2009 — Swarovski v OHIM — Swarovski (Daniel Swarovski Privat)

(Case T-55/09)

(2009/C 102/30)

Language in which the application was lodged: German

Parties

Applicant: Daniel Swarovski (Volders, Austria) (represented by: R. Küppers, lawyer)