

Pleas in law and main arguments

By the present action the applicant, is challenging the appointing authority's refusal to acknowledge the occupational origin of a disease which, according to the applicant himself, was caused by having to carry and lift, as part of his duties, loads of a certain weight.

In support of his arguments, the applicant alleges:

- the allegedly incomprehensible nature of the Medical Committee's findings;
- infringement of Article 73 of the Staff Regulations and Article 3(2) of the Rules on the Insurance of Officials of the European Communities against the Risk of Accident and of Occupational Disease, and failure to observe the duty of care and the principle of proportionality;
- breach of the procedure laid down in Article 21 of the abovementioned rules.

Action brought on 3 July 2001 by Bruno Heim and Franz Gustav Andersson against Office for the Harmonization of the Internal Market (trade marks and designs) (OHIM)

(Case T-149/01)

(2001/C 245/48)

(Language of the case: to be determined in accordance with Article 131(2) of the Rules of Procedure. Language in which the application was drafted: Spanish)

An action against Office for Harmonization in the Internal Market (trade marks and designs (OHIM) was brought before the Court of First Instance of the European Communities on 3 July 2001 by Bruno Heim and Franz Gustav Andersson, both residing in Germany, represented by Juan José Carreño Moreno.

The applicant claims that the Court should:

- annul the decision of the Third Board of Appeal of the Office for Harmonization in the Internal Market (trade marks and designs (OHIM)) of 4 April 2001 in the proceedings in R 588/199-3 dismissing the appeal against the decision to refuse to register the figurative mark 'DockerS by Gerli' as a Community trade mark for goods in Class 25; and
- order a new decision annulling the preceding decision and granting Community trade mark registration application No 22.129 'DockerS by Gerli' for goods in Class 25 of the international classification, of which the applicants are the proprietors.

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Applicant for the Community trade mark:

Bruno Heim and Franz Gustav Andersson

The Community trade mark concerned:

Figurative mark 'DockerS by Gerli' — Application No 22.129 for goods in Class 25

Proprietor of the right to the trade mark or sign asserted by way of opposition in the opposition proceedings:

Levi Strauss & Co.

Trade mark or sign asserted by way of opposition in the opposition proceedings:

French and Swedish figurative marks 'DOCKERS' registered for goods in Class 25

Decision of the Opposition Division:

Rejection of the application for registration of the Community trade mark

Decision of the Board of Appeal:

Dismissal of the appeal and confirmation of the rejection of the application for registration of the Community trade mark

Grounds of claim:

- infringement of Articles 34 and 35 of Regulation No 40/94 ⁽¹⁾;
- infringement of Article 8(2)(c) of Regulation No 40/94 and Rule 8 of Regulation No 2868/95 ⁽²⁾;
- breach of the concept of 'risk of confusion'

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

⁽²⁾ Commission Regulation (EC) No 2868/95 of 13 December 1995 implementing Council Regulation (EC) No 40/94 on the Community trade mark (OJ 1995 L 303, p. 1).

Action brought on 2 July 2001 by Cristiano Sebastiani against Commission of the European Communities

(Case T-150/01)

(2001/C 245/49)

(Language of the case: French)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 2 July 2001 by Cristiano Sebastiani, residing in Brussels represented by Jean-Noël Louis and Véronique Peere, lawyers, with an address for service in Luxembourg.