

**Appeal brought on 6 December 2001 by Procter & Gamble Company against the judgment delivered on 19 September 2001 by the Second Chamber of the Court of First Instance of the European Communities in case T-129/00<sup>(1)</sup> between Procter & Gamble Company and Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM).**

**(Case C-474/01 P)**

(2002/C 84/77)

An appeal against the judgment delivered on 19 September 2001 by the Second Chamber of the Court of First Instance of the European Communities in case T-129/00 between Procter & Gamble Company and Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of Justice of the European Communities on 6 December 2001 by Procter & Gamble Company, established in Cincinnati, Ohio (United States of America), represented by C.J.J.C. van Nispen and G. Kuipers, lawyers.

The Appellant claims that the Court should:

- annul the judgment; insofar as the remainder of the action was dismissed;
- order the OHIM to pay the costs both at first instance and on appeal.

*Pleas in law and main arguments*

See case C-473/01 P.

<sup>(1)</sup> OJ C 192, 8.7.2000, p. 25.

**Action brought on 11 December 2001 by the Commission of the European Communities against the Grand Duchy of Luxembourg**

**(Case C-478/01)**

(2002/C 84/78)

An action against the Grand Duchy of Luxembourg was brought before the Court of Justice on 11 December 2001 by

the Commission of the European Communities, represented by M. Patakia, acting as Agent, with an address for service in Luxembourg.

The applicant claims that the Court should:

- (1) declare that, by maintaining the obligation for patent agents, when providing services, either to maintain an official place of business on Luxembourg territory or, failing that, to maintain an official address care of an approved agent, and by failing to supply information concerning the precise conditions for the application of Article 85(2) of the Law of 20 July 1992 and Articles 19 and 20 of the Law of 28 December 1988, the Grand Duchy of Luxembourg has failed to fulfil its obligations under Article 49 et seq. EC and Article 10 EC respectively;
- (2) order the Grand Duchy of Luxembourg to pay the costs.

*Pleas in law and main arguments*

- The obligation to maintain an official address, imposed by Article 83(4) of the Law of 20 July 1992, constitutes a restriction on the principle of freedom to provide services as laid down by Article 49 EC, since it impedes the activities of the service provider by causing him to bear additional costs and obliging him to create professional links with a local operator in the same sector, who may even be a competitor. Moreover, that obligation is likely to prompt foreign applicants to have recourse to the services of patent agents established in Luxembourg.
- The fact that the detailed information requested by the Commission has not been supplied means that it is impossible to establish whether it is justified, even as regards straightforward acts of an administrative nature, to require industrial property advisers in other Member States to fulfil the criteria for recognition of their professional qualifications (Council Directive 89/48/EEC<sup>(1)</sup>). That lack of any response constitutes a failure to collaborate within the meaning of Article 10 EC.

<sup>(1)</sup> Council Directive 89/48/EEC of 21 December 1988 on a general system for the recognition of higher-education diplomas awarded on completion of professional education and training of at least three years' duration (OJ L 19 of 21.1.1989, p. 16).