

**Action brought on 18 April 2003 by Inex N.V. against the Office for Harmonisation in the Internal Market****(Case T-153/03)**

(2003/C 171/60)

*(Language of the case: French)*

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) was brought before the Court of First Instance of the European Communities on 18 April 2003 by Inex N.V., represented by Thierry van Innis, lawyer.

Robert Wiseman & Sons Limited, Glasgow (United Kingdom) was also a party to the proceedings before the Second Board of Appeal.

The applicant claims that the Court should:

- annul the decision handed down by the Second Board of Appeal of the defendant on 4 February 2003 in Case R 106/2001-2;
- order the defendant to pay the costs.

*Pleas in law and main arguments*

Applicant for Community trade mark     Robert Wiseman & Sons Limited, Glasgow (United Kingdom)

Community trade mark sought     Figurative mark composed of the graphic representation of a cowhide in black and white — application no. 132, 134, filed for goods and services in classes 29, 32 and 39 (in particular: milk, milk beverages, milk products, dairy products, cream and yoghurt)

Proprietor of mark or sign cited in the opposition proceedings:     The plaintiff

Proprietor of mark or sign     Composite Benelux trade mark no 580 538 comprising in part a graphic representation of a cowhide in black and white registered for goods in classes 29 and 30

Decision of the Opposition Division:     Rejection of the opposition

Decision of the Board of Appeal:

Dismissal of the applicant's appeal

Pleas in law:

Infringement of the concept of the likelihood of confusion as interpreted by the Court of Justice in the light of:

- the identity of the goods;
- the similarity between the mark against which the opposition was directed and the dominant and distinctive element of the first mark;
- the fact that the goods are targeted at the general public for everyday use

**Action brought on 24 April 2003 by Michael Cwik against the Commission of the European Communities****(Case T-155/03)**

(2003/C 171/61)

*(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 24 April 2003 by Michael Cwik, residing in Tervuren (Belgium), represented by Nicolas Lhoëst, lawyer.

The applicant claims that the Court should:

- annul the decision of the Secretary General of 13 June 2002 confirming, without amendment, the applicant's staff report for the period running from 1 July 1995 to 30 June 1997;
- order the defendant to pay the applicant EUR 15 000 by way of damages;
- order the defendant to pay the costs.

*Pleas in law and main arguments*

The applicant in these proceedings objects to the two-year delay in receiving his staff report in respect of the period between July 1995 and June 1997 and to the contents thereof, by comparison to the preceding reports.

In support of his claims, the applicant alleges failure to fulfil the obligation to provide a statement of reasons, manifest error of assessment, misuse of powers and irregular procedures.

**Action brought on 30 April 2003 by Orlando Pérez-Díaz against Commission of the European Communities**

(Case T-156/03)

(2003/C 171/62)

(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 30 April 2003 by Orlando Pérez-Díaz, residing in Brussels, represented by Marc-Albert Lucas, lawyer.

The applicant claims that the Court should:

- annul the decision of the Selection Board in COM/R/A/1/1999 not to enter his name in the reserve list for that selection, notified to him by letter of 21 January 2003 from the Head of Personnel in the Research Directorate General of the Commission in the name of the Chairman of the Selection Board;
- order the Commission to pay him, by way of compensation for the non-material damage and damage to his career suffered by him as a result of the unlawfulness of the contested decision damages at a level to be assessed by the Court of First Instance;
- order the Commission to pay the costs.

*Pleas in law and main arguments*

The applicant, an agent for the Centre for the Development of Enterprise, applied to take part in selection procedure COM/R/A/01/1999 organised by the defendant with a view to establishing a reserve list for the recruitment of members of

the temporary staff. By decision of 14 July 2002, the Selection Board did not enter the applicant's name on the reserve list. That decision was annulled by the Court of First Instance in Case T-102/01 Pérez-Díaz v Commission [2002] ECR II-0000. In order to comply with that judgment, the Selection Board decided to organise fresh oral tests in which the applicant took part while nevertheless reserving his position as to its validity. The selection board decided that the applicant's results in the new tests were not sufficient to enable him to be entered on the reserve list.

In support of his application, the applicant puts forward five pleas in law alleging:

- infringement of the second paragraph of Article 25 of the Staff Regulations inasmuch as the contested decision was inadequately reasoned;
- infringement of Article 233 of the EC Treaty and of the principles of equal treatment and objectivity in making a choice from among the candidates inasmuch as the applicant's performance was allegedly assessed under conditions and according to criteria which were different to those employed in respect of the other candidates;
- breach of the principles of 'restitutio in integrum' and of equal treatment inasmuch as the applicant was required to re-sit the first and third stages of the oral test and give his views, in the second part of the second stage, on current scientific developments which had taken place since the original tests;
- infringement of Article 233 of the EEC Treaty, inasmuch as the members of the new Selection Board had insufficient knowledge of the Spanish language to be able to assess the candidate's abilities;
- breach of the principle of 'restitutio in integrum' inasmuch as the composition of the new selection board was not as close as possible to that of the original board.

**Action brought on 5 May 2003 by Cascades SA against the Commission of the European Communities**

(Case T-161/03)

(2003/C 171/63)

(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 5 May 2003 by Cascades SA, established in La Rochette (France), represented by Jacques Buhart and Pierre-M. Louis, lawyers.