

- make the appropriate ruling as to costs and order the Parliament to pay those costs.

Pleas in law and main arguments

The applicants in this case seek the annulment of the Parliament's decision changing the method of calculating annual travel expenses to Greece.

The pleas in law and main arguments put forward by the applicants in support of their application are similar to those of the applicants in Cases T-221/02 ⁽¹⁾ and T-44/03 ⁽²⁾.

⁽¹⁾ OJ C 247, 12.10.02, p. 17.

⁽²⁾ OJ C 101, 26.04.03, p. 40.

Action brought on 26 May 2003 by Applied Molecular Evolution, Inc. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-183/03)

(2003/C 184/97)

(Language of the case: English)

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 26 May 2003 by Applied Molecular Evolution, Inc., San Diego, USA, represented by Mr A. Deutsch, lawyer.

The applicant claims that the Court should:

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade-marks and Designs) in the case R 108/2002-2 of 13 March 2003.
- Order the defendant to register the mark No 001586510 'APPLIED MOLECULAR EVOLUTION'
- Order the costs of the proceedings to be borne by the defendant

Pleas in law and main arguments

Applicant for Community trade mark: Applied Molecular Evolution, Inc

Community trade mark sought: Word mark 'APPLIED MOLECULAR EVOLUTION' for certain services in Class 42 (application No 001586510)

Examiner's decision: Application refused

Decision of the Board of Appeal: Appeal dismissed

Pleas in law: Misapplication of Article 7(1) (b) and (c), of Regulation 40/94 ⁽¹⁾.

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

Action brought on 21 May 2003 by Metrovacesa SA against the Office for Harmonisation in the Internal Market (Trade marks and Designs) (OHIM)

(Case T-184/03)

(2003/C 184/98)

(Language of the case: Spanish)

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 21 May 2003 by Metrovacesa SA, (Madrid), represented by José Antonio Calderón Chavero, lawyer at the Madrid Bar.

The applicant claims that the Court should:

- annul the decision of the First Board of Appeal of OHIM of 10 March 2003 in Case R-183/2002;
- dismiss in its entirety opposition procedure no B262.271;
- uphold the claims of the appellant and allow the relevant Opposition Division at OHIM to register the trade mark in question; and
- order OHIM and the other parties to pay the costs.

Pleas in law and main arguments

Applicant for Community trade mark: GESINAR S.L. (Assignee: the applicant)

Community trade mark sought: Figurative mark 'Gesinar' — Application no 1 202 027 for goods in Classes 35, 36 and 41 (business management assistance, administration, brokerage, leasing, evaluation, appraisal and development of all kinds of real estate; issue of tokens of value, educational and entertainment services)

Proprietor of mark or sign cited in the opposition proceedings: GESTIONES ADMINISTRATIVAS Y SERVICIOS INMOBILIARIOS MAR S.L.

Mark or sign cited in opposition: Figurative mark 'GESINMAR' (mark with priority no 1975912, for goods in Class 36)

Decision of the Opposition Division: Upholding of the opposition for all services in Class 36

Decision of the Board of Appeal: Dismissal of the appeal

Pleas in law: Misapplication of Article 8(1)(b) of Regulation (EC) No 40/94 (likelihood of confusion)

Action brought on 27 May 2003 by Vincenzo Fusco against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-185/03)

(2003/C 184/99)

(Language of the case: Italian)

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 27 May 2003 by Vincenzo Fusco, represented by B. Saguatti, lawyers.

The other party to the proceedings before the Board of Appeal was Antonio Fusco International S.A.

The applicant claims:

- as a principal claim, that the Court should annul the contested decisions of the Board of Appeal holding that the marks Antonio Fusco and Enzo Fusco were liable to be confused with each other;
- in the alternative, should the Court hold that the marks Antonio Fusco and Enzo Fusco are liable to confusion, that the Court should specify the precise territorial scope of the decision;
- as a principal claim, a declaration that, although the opposition is based on an earlier Community trade mark, the transformation procedure is not precluded save by reference to the territory in respect of which the existence of a risk of confusion may be recognised;
- that the opponent should be ordered to pay the costs, or, in the alternative, given the delicacy and complexity of the questions under consideration, that a composition of costs should be established.

Pleas in law and main arguments

Applicant for Community trade mark: The Applicant

Community trade mark sought: The trade name 'ENZO FUSCO' — Application for registration No 726735, requested for products in Classes 3, 9, 18, 24 and 25 (products which are traditionally the subject of trade mark registration by so-called creators of taste and fashion)

Proprietor of mark or sign cited in the opposition proceedings: Antonio Fusco International S.A., Luxembourg

Mark or sign cited in opposition: Community mark 'ANTONIO FUSCO' (Registration No 654059) for products substantially identical to those claimed by the Applicant

Decision of the Opposition Division: Opposition upheld and application for registration dismissed

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

Pleas in law: Misapplication of Article 8(1)(b) of Regulation (EC) No 40/94 (Risk of confusion).

Action brought on 27 May 2003 by Joëlle Hivonnet against Council of the European Union

(Case T-188/03)

(2003/C 184/100)

(Language of the case: French)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 27 May 2003 by Joëlle Hivonnet, domiciled in New York (United States), represented by Georges Vander-sanden and Laure Levi, lawyers.

The applicant claims that the Court should:

- annul the decision of the appointing authority of 23 July 2002 rejecting the applicant's request for the grant of an education allowance for her daughter Eponine for the school years 1999-2000 and 2000-2001, and only granting an education allowance for the school year 2001-2002 on an exceptional basis on the ground of educational continuity;