

- annul the decision of the Fourth Board of Appeal of the defendant of 30 April 2003 in appeal proceedings R 913/2001-4;
- instruct the defendant to make a determination on the merits in opposition proceedings B 288680, taking account of the legal view of the matter formed by the adjudicating court;
- order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

Applicant for Community trade mark:	ECI Telecom Ltd.
Community trade mark sought:	Word mark 'Hi-FOCuS' in respect of goods and services in Classes 9 and 38 — application No 1 338 029
Proprietor of mark or sign cited in the opposition proceedings:	The applicant
Mark or sign cited in opposition:	The German mark 'FOCUS' (No 394 07 564) in respect of goods and services in Classes 3, 5, 6, 7, 8, 9, 14, 15, 16, 18, 20, 21, 24, 25, 26, 28, 29, 30, 33, 34, 38, 39, 41 and 42
Decision of the Opposition Division:	Rejection of the opposition
Decision of the Board of Appeal:	Dismissal of the applicant's appeal
Pleas in law:	<ul style="list-style-type: none"> — Submission in the opposition proceedings of adequate evidence of the applicant's earlier right; — Infringement of the applicant's right to a hearing; — Infringement of the applicant's right of due process; — Infringement of Article 42 of Regulation (EC) No 40/94 ⁽¹⁾ and Rule 20(3) of Regulation (EC) No 2868/95 ⁽²⁾.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 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 5 August 2003 by Galileo International Technology LLC and 13 Others against the Commission of the European Communities

(Case T-279/03)

(2003/C 251/29)

(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 August 2003 by Claude Delcorde, Jean-Noël Louis, Julie-Anne Delcorde and Spyros Maniatopoulos, lawyers, represented by Claude Delcorde, Jean-Noël Louis, Julie-Anne Delcorde and Spyros Maniatopoulos, lawyers, with an address for service in Luxembourg.

The applicants claim that the Court should:

- Prohibit the Commission from making any use of the word 'Galileo' in relation to the satellite radio navigation system project and to cease causing directly or indirectly any third party whatsoever to use that word in the context of that project, and prohibit it from having any part whatsoever in the use of that word by any third party;
- order the Commission to pay the applicants, acting jointly and severally, the amount of EUR 50 million as compensation for the material damage suffered;

In the alternative,

- in the event that the Commission continues to use the word 'Galileo', order it to pay the applicants an amount of EUR 240 million;
- order the Commission to pay the applicant, as from the date of filing of the application, default interest calculated by reference to the ECB rate plus 2 per cent;
- order the defendant to pay the costs.

Pleas in law and main arguments

The applicants, who are the proprietors of a number of trade marks and company names containing the word 'Galileo' as an essential component, argue that the adoption of that word by the Commission as the name for the Community project on the European satellite radio navigation system infringes their trade mark rights.

The action is based on Article 288 of the EC Treaty. The applicants claim there is a likelihood of confusion based on the alleged similarity between the signs in question and between the goods and services sold by the applicants and the subject-matter of the Community project. They also claim that the Commission acted unfairly and negligently with regard to their rights, and plead infringement of the principle of proportionality.

Action brought on 8 August 2003 by Van Mannekus & Co. B.V. against the Council of the European Union

(Case T-280/03)

(2003/C 251/30)

(Language of the case: German)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 8 August 2003 by Van Mannekus & Co. B.V., Schiedam (Netherlands), represented by H. Bleier, lawyer.

The applicant claims that the Court should:

- annul Council Regulation (EC) No 986/2003 of 5 June 2003 amending the antidumping measures imposed by Regulation (EC) No 360/2000 on imports of dead-burned (scintered) magnesia originating in the People's Republic of China ⁽¹⁾;
- order the Council of the European Union to pay all the costs.

Pleas in law and main arguments

By the contested regulation the Council altered the nature of antidumping duties on imports of dead-burned magnesia originating in the People's Republic of China on the basis of a partial interim review.

The pleas in law and arguments of the applicant are the same as in Case T-278/03 (*Van Mannekus v Council*).

⁽¹⁾ OJ L 143, p. 5.

Action brought on 5 August 2003 by Xanthippi Liakoura against the Council of the European Union

(Case T-281/03)

(2003/C 251/31)

(Language of the case: French)

An action against the Council of the European Union was brought before the Court of Justice of the European Communities on 5 August 2003 by Xanthippi Liakoura, residing in Brussels, represented by Jean A. Martin, lawyer.

The applicant claims that the Court should:

- annul the decision of the Council of 5 May 2003 in so far as it does not:
 1. delete, from the definitive report for the period from 1 July 1999 to 30 June 2001, the following words included under general observations: 'She is encouraged to resume tasks of coordination and distribution of work in the Pool which she has performed efficiently in the past';
 2. include a reference in that report to her 'capacity for mobility and versatility';
- order the Council to pay the costs.

Pleas in law and main arguments

The applicant takes issue with the appointing authority's refusal to delete one phrase and include another in her staff report for the period from 1 July 1999 to 30 June 2001.