

COURT OF FIRST INSTANCE

Action brought on 27 June 2003 by Guardant, Inc. against the Office for Harmonisation in the Internal Market**(Case T-243/03)**

(2003/C 264/48)

(Language of the case: English)

An action against the Office for Harmonisation in the Internal Market was brought before the Court of First Instance of the European Communities on 27 June 2003 by Guardant, Inc., Atlanta (USA), represented by G. Farrington, Solicitor.

The applicant claims that the Court should:

- annul the decision of the Defendant's Second Board of Appeal of 28 April 2003;
- order the Defendant to remit the application to its Examination Division for re-examination of Community Trade Mark number 171 321 3;
- order the Defendant to pay the costs.

Pleas in law and main arguments

The trade mark concerned: The word mark 'PENSAMOS MÁS EN USTED' — application No 171 321 3

Goods or service concerned: Services in Class 39 (transportation, storage and travel services; transportation of passengers and cargo, frequent flyer bonus programs)

Decision contested before the Board of Appeal: Refusal of registration by the examiner

Decision of the Board of Appeal: Dismissal of the appeal

- Grounds of claim:
- The mark applied for is not devoid of any distinctive character within the meaning of Article 7(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾.
 - The mark applied for is not the normal means of designating services in the field of transportation, storage and travel.

⁽¹⁾ Council Regulation (EC) No 40/94 of 20.12.1993 on the Community trade mark (OJ L 11, p. 1).

Action brought on 21 July 2003 by 'Z' against the Commission of the European Communities**(Case T-259/03)**

(2003/C 264/49)

(Language of the case: Greek)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 21 July 2003 by 'Z', resident in Athens, Greece, represented by Vasilios Christianos, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- order the defendant to pay to her by way of damages, with interest from the time at which the damage or harm arose, the sum of EUR 900 000, comprising EUR 700 000 for non-material damage which she has suffered and EUR 200 000 for harm suffered to her health;
- order the defendant to pay the applicant's costs.