

Action brought on 4 August 2003 by Focus Magazin Verlag GmbH against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-274/03)

(2003/C 264/52)

(Language of the case to be determined pursuant to Article 131(2) of the Rules of Procedure — language in which the application was submitted: German)

An action against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) was brought before the Court of First Instance of the European Communities on 4 August 2003 by Focus Magazin Verlag GmbH, Munich (Germany), represented by U. Gürtler, lawyer. France Telecom S.A., Paris, was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul Decision No 1956/2001 of the Opposition Division of the defendant of 2 August 2001 in opposition proceedings B 260576;
- annul the decision of the Fourth Board of Appeal of the defendant of 30 April 2003 in appeal proceedings R 849/2001-4;
- instruct the defendant to make a determination on the merits in opposition proceedings B 260576, 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: France Telecom S.A.

Community trade mark sought: Word mark 'Focus One' in respect of goods and services in Classes 9, 35, 38 and 42 — application No 984 484

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

Mark or sign cited in opposition:

The German mark 'FOCUS' (No 395 46 204) in respect of goods and services in Classes 9, 16, 35, 36, 37, 38, 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:

- 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 23 July 2003 by Dionisia Elefteriadi against the Commission of the European Communities

(Case T-277/03)

(2003/C 264/53)

(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 23 July 2003 by Dionisia Elefteriadi, residing in Athens, represented by Timotheos Sigalas.