

- register the Community trade mark No 1.694.157 'emergia' (figurative mark) to designate 'telecommunications by networks of undersea cables for the electronic transmission of voice, data and video communications' in class 38 of the International Classification; and
- order the Office for Harmonisation in the Internal Market and any party entering an appearance as intervener to pay the costs.

Pleas in law and main arguments:

Applicant for Community trade mark:	The applicant.
Community trade mark sought:	Figurative mark 'emergia'— application No 1.694.157 for products and services in Classes 9, 38 and 42.
Proprietor of mark or sign cited in the opposition proceedings:	D. Branch.
Mark or sign cited in opposition.	Community word mark 'EMERGEA' for products and services including, in class 38, 'data transmission service by national and international networks and communications by computer terminals'.
Decision of the Opposition Division:	Opposition upheld in part in so far as the opposition concerned 'tele-communications, communications by computer networks' in class 38.
Decision of the Board of Appeal:	Appeal dismissed.
Pleas in law:	Article 8(1)(b) of Regulation No 40/94 (likelihood of confusion) wrongly applied.

Action brought on 14 May 2004 by Jürgen Carius against Commission of the European Communities

(Case T-173/04)

(2004/C 179/31)

(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 14 May 2004 by Jürgen Carius,

residing at Brussels, represented by N. Lhoëst, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- Annul the decision of the Director General of DG ADMIN of 21 May 2003 which confirms, without amendment, the applicant's career development review for the period from 1 July 2001 to 31 December 2002;
- Annul, so far as necessary, the Commission's Decision of 23 December 2003, rejecting the applicant's complaint;
- Order the defendant to pay all the costs of the proceedings.

Pleas in law and main arguments:

In support of his action, the applicant pleads the illegality of the new appraisal system based on non-objective criteria which do not enable the subject to ascertain, in sufficient time, the contents of his appraisal report in order to be able, if appropriate, to submit observations to the appraiser.

The applicant also pleads infringement of the duty to state reasons, in that the significant decline in the appraisal of his merits was not properly explained, and a manifest error of assessment.

Action brought on 6 May 2004 by Petrotub S.A., against the Council of the European Union

(Case T-174/04)

(2004/C 179/32)

(Language of the case: English)

An action against the Council of the European Union was brought before the Court of First Instance of the European Communities on 6 May 2004 by Petrotub S.A., Romania, represented by Mr A.L. Merckx, lawyer, with an address for service in Luxembourg.

The applicant claims that the Court should:

- Annul Article 1 of Council Regulation (EC) No 235/2004 of 10 February 2004 amending Regulation (EC) No 2320/97 imposing definitive anti-dumping duties on imports of certain seamless pipes and tubes of iron or non-alloy steel originating in, inter alia, Romania in so far as it concerns imports into the European Community of products manufactured by Petrotub S.A. and Republica S.A (!).
- order the defendant to pay the costs