

Pleas in law and main arguments:

Applicant for Community trade mark:	MPS Group Inc.
Community trade mark sought:	The Community trade mark application No 778795 'MODIS' for services in class 35 (employment agency services, recruitment consultancy services, payroll preparation services,...), class 41 (staff training services) and class 42 (psychometric testing)
Proprietor of mark or sign cited in the opposition proceedings:	Modis Distribuição Centralizada SA
Mark or sign cited in opposition:	The Portuguese trade mark 'MODIS' for services in class 35 (Advertising, business management and business administration)
Decision of the Opposition Division:	Rejection of the Community trade mark application for classes 35 and 41 and admission of the application for class 42.
Decision of the Board of Appeal :	Annulment of the Decision of the Opposition Division as it upheld the opposition with respect to the services applied for in Class 41, remittal of the case for further prosecution to the examiner and rejection of the appeal for the remainder.
Pleas in law:	Violation of Articles 8(1)(a) and 8(1)(b) of Council Regulation No 40/94 on the Community Trade Mark ⁽¹⁾ in deciding that the services concerned were similar.

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

Action brought on 17 May 2004 by Siegfried Krahel against the Commission of the European Communities

(Case T-179/04)

(2004/C 201/39)

(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 17 May 2004 by Siegfried Krahel, residing in Zagreb (Croatia), represented by Sébastien Orlandi, Albert Coolen, Jean-Noël Louis and Etienne Marchal, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

- Annul the Commission's decision to recover the daily subsistence allowances paid to the applicant during the period when temporary accommodation was made available to him;
- Order the defendant to pay the costs.

Pleas in law and main arguments

The applicant, an official of the Commission, took up his post in the Commission's delegation to Zagreb on 2 February 2002 and until 19 September 2002 stayed in accommodation made available by the Commission. By the contested decision, the Commission decided to recover the daily subsistence allowances paid to the applicant during that period on the ground that he was not entitled to them, as he had stayed in an apartment provided by the Commission.

In support of his action, the applicant claims that there has been a breach of Article 10 of Annex VII to the Staff Regulations. He alleges that the Commission made the accommodation available only on a temporary basis, without security of tenure, and that he was therefore not prevented from receiving the daily subsistence allowances. He further claims that there has been an infringement of the principle of legitimate expectations, on the ground that the Commission gave him specific assurances concerning payment of the daily subsistence allowances while he was staying in the apartment in question.

Action brought on 25 May 2004 by Spa Monopole, Compagnie Fermière de Spa against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)

(Case T-186/04)

(2004/C 201/40)

(Language of the case: French)

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 25 May 2004 by Spa Monopole, Compagnie Fermière de Spa, established in Spa (Belgium), represented by L. de Brouwer, E. Cornu, E. De Gryse and D. Moreau, lawyers.

Spaform Limited was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul Decision R 0827/2002-4 of 25 February 2004 of the Fourth Board of Appeal dismissing the appeal by the applicant against the Opposition Division's decision to dismiss the opposition brought by the applicant against registration of the word mark 'SPAFORM' for goods in Classes 7, 9 and 11.
- order OHIM to pay the costs.