

**Action brought on 19 September 2003 by Telefon und Buch Verlagsgesellschaft m.b.H against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

(Case T-322/03)

(2005/C 6/73)

(Language of the case: 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 19 September 2003 by Telefon und Buch Verlagsgesellschaft m.b.H, Salzburg (Austria), represented by H. G. Zeiner, lawyer. The other parties to the proceedings before the Board of Appeal were HEROLD Business Data GmbH & Co KG (previously Harold Business Data AG), Mödling, Austria.

The applicant claims that the Court should:

- vary the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 June 2003 in the joined cases R 580/2001 and R 592/2001 to the effect that the application for cancellation of the Community trade mark WEISSE SEITEN No 371.096 is dismissed in its entirety; in the alternative
- set aside the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 19 June 2003 in the joined cases R 580/2001 and R 592/2001 and instruct the Office for Harmonisation in the Internal Market (Trade Marks and Designs), possibly after supplementary proceedings, to come to a new decision and to dismiss in its entirety the application for cancellation of the Community trade mark WEISSE SEITEN No 371.096; order the defendant to pay the costs of the proceedings.

*Pleas in law and main arguments:*

Registered Community trade mark in respect of which an application for cancellation was made:

The word mark WEISSE SEITEN for goods and services in Classes 9, 16, 41 and 42 — Community trade mark No 371.096

Owner of the Community trade mark:

The applicant

Applicant for the cancellation of the Community trade mark:

HEROLD Business Data GmbH & Co KG

Decision of the Cancellation Division:

Part cancellation of the Community trade mark in respect of telephone directories of names in printed form or on electronic storage media (Classes 9 and 16) and in respect of the publication of those telephone directories of names (Class 41)

Decision of the Board of Appeal:

Dismissal of the appeal

Grounds for the action:

- The registered trade mark has distinctive character for the purposes of Article 7(1)(b) of Regulation (EC) No 40/94.
- The registered sign is not descriptive of any of the goods or services in the list of goods and services in accordance with Article 7(1)(c).
- The registered mark is not an indication in common use for the purposes of Article 7(1)(d).

**Action brought on 23 September 2004 by Heuschen & Schrouff Oriëntal Foods Trading B.V. against the Commission of the European Communities**

(Case T-382/04)

(2005/C 6/74)

(Language of the case: Dutch)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 23 September 2004 by Heuschen & Schrouff Oriëntal Foods Trading B.V., established in te Landsgraaf (Netherlands), represented by Hendrik Cornelis De Bie.

The applicant claims that the Court should:

- annul Commission Decision REM 19/2002 of 17 June 2004 in so far as it holds the request for remission of duties unjustified;
- order the Commission to pay the costs.