

JUDGMENT OF THE COURT OF FIRST INSTANCE**of 23 November 2004****in Case T-360/03: Frischpack GmbH & Co. KG v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) ⁽¹⁾****(Community trade mark — Three-dimensional mark — Shape of a cheese box — Absolute ground for refusal — Article 7(1)(b) of Regulation (EC) No 40/94 — Distinctive character)**

(2005/C 31/41)

(Language of the case: German)

In Case T-360/03: Frischpack GmbH & Co. KG, established in Mailling bei Schönau (Germany), represented by P. Bornemann, lawyer, against Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: U. Pflegar and G. Schneider) – appeal against Decision R 236/2003-2 of the Second Board of Appeal of OHIM of 8 September 2003 concerning the registration of a three-dimensional mark (cheese box) – the Court of First Instance (Fifth Chamber), composed of P. Lindh, President, R. García-Valdecasas and D. Šváby, Judges; I. Natsinas, Administrator, for the Registrar, has given a judgment on 23 November 2004, in which it:

1. Dismisses the action;
2. Orders the applicant to pay the costs.

⁽¹⁾ OJ C 304 of 13.12.2003.

ORDER OF THE COURT OF FIRST INSTANCE**of 6 September 2004****in Case T- 213/02: SNF SA v Commission of the European Communities ⁽¹⁾****(Action for annulment — Directive 2002/34/EC — Restrictions on the use of polyacrylamides in the composition of cosmetic products — Person individually concerned — Admissibility)**

(2005/C 31/42)

(Language of the case: English)

In Case T-213/02: SNF SA, established in Saint-Étienne (France), represented by K. Van Maldegem and C. Mereu, lawyers, against the Commission of the European Communities, (Agent: X. Lewis, with an address for service in Luxembourg) –

application for the partial annulment of Twenty-sixth Commission Directive 2002/34/EC of 15 April 2002 adapting to technical progress Annexes II, III and VII to Council Directive 76/768/EEC on the approximation of the laws of the Member States relating to cosmetic products (OJ 2002 L 102, p. 19) in so far as it restricts the use of polyacrylamides in the composition of cosmetic products – the Court of First Instance (Fifth Chamber), composed of: P. Lindh, President, R. García-Valdecasas and J.D. Cooke, Judges; H. Jung, Registrar, has made an order on 6 September 2004, the operative part of which is as follows:

1. The action is dismissed as inadmissible;
2. The applicant is to bear its own costs and those of the defendant.

⁽¹⁾ OJ C 233 of 28.9.2002.

ORDER OF THE COURT OF FIRST INSTANCE**of 9 November 2004****in Case T-252/03: Fédération nationale de l'industrie et des commerces en gros des viandes (FNICGV) v Commission of the European Communities ⁽¹⁾****(Competition — Decision finding an infringement of Article 81 EC — Market in beef and veal — Action for annulment — Unlimited jurisdiction — Time-limit for bringing application — Introduction out of time — Inadmissibility)**

(2005/C 31/43)

(Language of the case: French)

In Case T-252/03: Fédération nationale de l'industrie et des commerces en gros des viandes (FNICGV), established in Paris (France), represented by P. Abegg and E. Prigent, lawyers, with an address for service in Luxembourg, supported by French Republic (Agents: R. Abraham, G. de Bergues and F. Million, with an address for service in Luxembourg), against Commission of the European Communities (Agents: P. Oliver and F. Lelièvre, with an address for service in Luxembourg) – action for annulment of the fine imposed on the applicant by Article 3 of Commission Decision 2003/600/EC of 2 April 2003 relating to a proceeding pursuant to Article 81 of the EC Treaty (Case COMP/C.38.279/F3 – French beef) (OJ 2003 L 209, p. 12) and, in the alternative, for a reduction of the amount of that fine – the Court of First Instance (Fifth Chamber), composed of P. Lindh, President, R. García-Valdecasas and J.D. Cooke, Judges; H. Jung, Registrar, has made an order on 9 November 2004, the operative part of which is as follows: