

1. *The action is dismissed as inadmissible.*
2. *The applicant and the Commission shall bear their own costs relating to the main action.*
3. *The applicant shall bear its own costs and pay those of the Commission relating to the proceedings for interim measures.*
4. *The French Republic shall bear its own costs.*

(<sup>1</sup>) OJ C 213 of 6.9.2003.

**ORDER OF THE PRESIDENT OF THE COURT OF FIRST INSTANCE**

**of 10 November 2004**

**in Case T-316/04: R Wam SpA v Commission of the European Communities**

*(State aid — Loans at reduced rates intended to enable an undertaking to become established in certain non-member countries — Obligation to recover — Application for interim measures — Suspension of operation — Urgency — None)*

(2005/C 31/44)

*(Language of the case: Italian)*

In Case T-316/04 R: Wam SpA, established in Cavezzo di Modena (Italy), represented by E. Giliani, lawyer, against the Commission of the European Communities (Agents: V. Di Bucci and E. Righini, with an address for service in Luxembourg) – application for suspension of the operation of Commission Decision C(2004) 1812 final of 19 May 2004 on State aid C-4/2003 (ex NN 102/2002) – the President of the Court of First Instance made an order on 10 November 2004, the operative part of which is as follows:

1. *The application for interim relief is dismissed.*
2. *The costs are reserved.*

**Action brought on 8 September 2004 by Hensotherm AB against the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM)**

**(Case T-366/04)**

(2005/C 31/45)

*(Language of the case: Swedish)*

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 8 September 2004 by Hensotherm AB, Trelleborg (Sweden), represented by Stefan Hallbäck, lawyer.

Rudolf Hensel GmbH, Börnsen (Germany), was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- refer the case back to the Board of Appeal of the Office for Harmonisation for examination of the substance of the applicant's appeal against the decision of the Cancellation Division of 11 September 2003 on the ground of breach of essential procedural requirements;
- in the alternative, examine the appeal against the Cancellation Division's decision of 11 September 2003 and the Board of Appeal's decision of 12 July 2004 and dismiss Rudolf Hensel GmbH's application for a declaration of invalidity of Community trade mark No 357 863;
- order the defendant to pay the costs.

*Pleas in law and main arguments:*

Registered Community trade mark subject to an application for declaration of invalidity:

Figurative mark 'HENSOTHERM' for goods in Classes 2 and 17 (paints, insulation and sealing material) – Community trade mark No 357 863

Proprietor of Community trade mark:

The applicant

Party seeking a declaration of invalidity:

Rudolf Hensel GmbH