

## JUDGMENT OF THE COURT OF FIRST INSTANCE

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of 16 March 2005

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**in Case T-112/03 L'Oréal SA v Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) <sup>(1)</sup>**

**in Case T-160/03 AFCon Management Consultants and Others v Commission of the European Communities <sup>(1)</sup>**

*(Community trade mark — Opposition proceedings — Application for word mark FLEXI AIR — Earlier word mark FLEX — Relative ground for refusal — Likelihood of confusion — Request for proof of genuine use — Article 8(1)(b), Article 8(2)(a)(ii) and Article 43(2) of Regulation (EC) No 40/94)*

*(Tacis Programme — Invitation to tender — Irregularities in the tendering procedure — Action for damages)*

(2005/C 132/45)

(2005/C 132/46)

*(Language of the case: English)**(Language of the case: English)*

In Case T-112/03: L'Oréal SA, established in Paris (France), represented X. Buffet Delmas d'Autane, lawyer, against Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) (Agents: B. Filtenborg, S. Laitinen and G. Schneider), the other party to the proceedings before the Board of Appeal of OHIM having been Revlon (Suisse) SA, established in Schlieren (Switzerland) — action brought against the decision of the Fourth Board of Appeal of OHIM of 15 January 2003 (Case R 396/2001-4) relating to opposition proceedings between L'Oréal SA and Revlon (Suisse) SA — the Court of First Instance (Second Chamber), composed of J. Pirrung, President, A.W.H. Meij and I. Pelikánová, Judges; B. Pastor, Deputy Registrar, for the Registrar, gave a judgment on 16 March 2005, in which it:

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

<sup>(1)</sup> OJ C 135 of 7.6.2003.

In Case T-160/03: AFCon Management Consultants, established in Bray (Ireland), Patrick Mc Mullin, resident in Bray, Seamus O'Grady, resident in Bray, represented by B. O'Connor, solicitor, and I. Carreño, lawyer, against Commission of the European Communities (Agents: J. Enegren and F. Hoffmeister, with an address for service in Luxembourg) — application for compensation for the damage allegedly suffered as a result of irregularities in the tendering procedure for a project financed by the Tacis programme ('Project FDRUS 9902 — Agricultural extension services in South Russia') — the Court of First Instance (Fifth Chamber), composed of P. Lindh, President, R. García-Valdecasas and J.D. Cooke, Judges; D. Christensen, Administrator, for the Registrar, gave a judgment on 17 March 2005, in which it:

1. Orders the Commission to pay AFCon the sum of EUR 48 605, together with interest thereon from delivery of this judgment until full payment. The rate of interest to be applied is to be calculated on the basis of the European Central Bank's rate for its main refinancing operations, in force during the period concerned, plus two percentage points. The amount of interest is to be calculated on the basis of compound interest;
2. Dismisses the application as to the remainder;

3. Orders the Commission to pay the costs.

(<sup>1</sup>) OJ C 200 of 23.8.2003.

## JUDGMENT OF THE COURT OF FIRST INSTANCE

of 17 March 2005

**in Case T-285/03 Agraz, SA and Others v Commission of the European Communities** (<sup>1</sup>)

*(Agriculture — Common organisation of the markets in processed fruit and vegetable products — Production aid for processed tomato products — Method of calculating the amount — 2000-01 marketing year)*

(2005/C 132/47)

(Language of the case: French)

In Case T-285/03: Agraz, SA and Others, established in Madrid (Spain), Agrícola Conservera de Malpica, SA, established in Tolède (Spain), Agridor Soc. coop. rl, established in Pontenure (Italy), Alfonso Sellitto SpA, established in Mercato S. Severino (Italy), Alimentos Españoles, Alsat, SL, established in Don Benito, Badajoz (Spain), AR Industrie Alimentari SpA, established in Angri (Italy), Argo Food — Packaging & Innovation Co. SA, established in Serres (Greece), Asteris Industrial Commercial SA, established in Athens (Greece), Attianese Srl, established in Nocera Superiore (Italy), Audecoop distillerie Arzens — Techniques séparatives (AUDIA), established in Montréal (France), Benincasa Srl, established in Angri, Boschi Luigi & Figli SpA, established in Fontanellato (Italy), CAS SpA, established in Castagnaro (Italy), Calispa SpA, established in

Castel San Giorgio (Italy), Campil — Agro Industrial do Campo do Tejo, L<sup>da</sup>, established in Cartaxo (Portugal), Campoverde Srl, established in Carinola (Italy), Carlo Manzella & C. Sas, established in Castel San Giovanni (Italy), Carmine Tagliamonte & C. Srl, established in Sant'Egidio del Monte Albino (Italy), Carnes y Conservas Españolas, SA, established in Mérida (Spain), Cbcotti Srl, established in Nocera Inferiore (Italy), Cirio del Monte Italia SpA, established in Rome (Italy), Consorzio Ortofrutticoli Trasformati Polesano (Cotrapo) Soc. coop. rl, established in Fiesso Umbertino (Italy), Columbus Srl, established in Parma (Italy), Compal — Companhia produtora de Conservas Alimentares, SA, established in Almeirim (Portugal), Conditalia Srl, established in Nocera Superiore, Conservas El Cidacos, SA, established in Autol (Spain), Conservas Elagón, SA, established in Coria (Spain), Conservas Martinete, SA, established in Puebla de la Calzada (Spain), Conservas Vegetales de Extremadura, SA, established in Badajoz, Conserve Italia Soc. coop. rl, established in San Lazzaro di Savena (Italy), ConserveFranceSA, established in Nîmes (France), Conserve Guintrand SA, established in Carpentras (France), Conservificio Cooperativo Valbiferno Soc. coop. rl, established in Guglionesi (Italy), Consorzio Casalasco del Pomodoro Soc. coop. rl, established in Rivarolo del Re ed Uniti (Italy), Consorzio Padano Ortofrutticolo (Copador) Soc. coop. rl, established in Collecchio (Italy), Copais Food and Beverage Company SA, established in Nea Ionia (Greece), Tin Industry D. Nomikos SA, established in Marousi (Greece), Davia Srl, established in Gragnano (Italy), De Clemente Conserve Srl, established in Fisciano (Italy), DE. CON Srl, established in Scafati (Italy), Desco SpA, established in Terracina (Italy), 'Di Lallo' — Di Teodoro di Lallo & C. Snc, established in Scafati, Di Leo Nobile — SpA Industria Conserve Alimentari, established in Castel San Giorgio, Marotta Emilio, established in Sant'Antonio Abate (Italy), E. & O. von Felten SpA, established in Fontanini (Italy), Egacoop, S. Coop., L<sup>da</sup>, established in Andosilla (Spain), Elais SA, established in Athens, Emiliana Conserve Srl, established in Busseto (Italy), Perano Enrico & Figli Spa, established in San Valentino Torio (Italy), FIT — Fomento da Indústria do Tomate, SA, established in Águas de Moura (Portugal), Faiella & C. Srl, established in Scafati, 'Feger' di Gerardo Ferraioli SpA, established in Angri, Fratelli Longobardi Srl, established in Nocera Superiore, Fratelli Longobardi Srl, established in Scafati, Fruttage Soc. coop. rl, established in Alfonsine (Italy), G3 Srl, established in Nocera Superiore, Giaguaro SpA, established in Sarno (Italy), Giulio Franzese Srl, established in Carbonara di Nola (Italy), Greci Geremia & Figli SpA, established in Parme, Greci — Industria Alimentar SpA, established in Parme, Greek Canning Co. SA Kyknos, established in Nauplie (Greece), Grilli Paolo & Figli — Sas di Grilli Enzo e Togni Selvino, established in Gambettola (Italy), Heinz Iberica, SA, established in Alfaro (Spain), IAN — Industrias Alimentarias de Navarra, SA, established in Vilafranca (Spain), Industria Conserve Alimentari Aniello Longobardi — Di Gaetano, Enrico & Carlo Longobardi Srl, established in Scafati, Industrias de Alimentação Idal, L<sup>da</sup>, established in Benavente (Portugal), Industrias y Promociones Alimenticias, SA, established in Miajadas (Spain), Industrie Rolli Alimentari SpA, established in Roseto degli Abruzzi (Italy), Italoagro — Indústria de Transformação de Produtos Alimentares, SA, established in Castanheira do Ribatejo (Portugal), La Cesenate Conserve Alimentari SpA, established in Cesena (Italy), La Dispensa di Campagna Srl, established in Castagneto Carducci (Italy), La Doria SpA, established in Angri, La Dorotea di Giuseppe Alfano & C. Srl, established in Sant'Antonio Abate, La Regina del Pomodoro Srl, established in Sant'Egidio del Monte Albino, 'La Regina di San Marzano' di Antonio, Felice e Luigi Romano Snc, established in Scafati, La Rosina Srl, established in Angri, Le Quattro Stelle Srl, established in Angri, Lodato Gennaro & C. SpA, established in Castel San Giorgio, Louis Martin production SAS,