

The applicant claims that the Court should:

1. annul the decision of the First Board of Appeal of OHIM of 10 February 2005;
2. order OHIM to pay the costs.

Pleas in law and main arguments:

Applicant for Community trade mark:	CORUS UK Limited
Community trade mark sought:	Word mark GALVALLOY — application No 796 557, for goods in Class 6 (steel sheet and strip etc)
Proprietor of mark or sign cited in the opposition proceedings:	Applicant
Mark or sign cited in opposition:	National word mark GALVALLIA for goods in Class 6 (steel sheet and strip etc)
Decision of the Opposition Division:	Registration refused
Decision of the Board of Appeal:	Decision of the Opposition Division annulled
Pleas in law:	Incorrect application of Article 8(1)(b) of Regulation (EC) No 40/94 ⁽¹⁾

⁽¹⁾ Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark, OJ L 11 of 14.1.1994, p. 1.

Action brought on 10 May 2005 by Viviane Le Maire against the Commission of the European Communities

(Case T-191/05)

(2005/C 182/77)

(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 10 May 2005 by Viviane Le Maire, residing in Evere (Belgium), represented by Gilles Bounéou and Frédéric Frabetti, lawyers, with an address for service in Luxembourg.

The applicant claims that the Court should:

1. annul the implied decision of 5 September 2004, by which the Commission refused to grant the applicant the daily subsistence allowances following her entry into service;
2. order the defendant to pay the costs.

Pleas in law and main arguments

The applicant in these proceedings objects to the Appointing Authority's refusal to grant her the daily subsistence allowances provided for in Article 10 of Annex VII to the Staff Regulations. It is apparent from the documents annexed to the application that the reason for that refusal is the fact that the period of 120 days referred to in paragraph 2(a) of that provision was exceeded in the present case.

In support of her claims, the applicant argues:

- breach of Article 10 of Annex VII to the Staff Regulations, in the versions of that text before and after 1 May 2004, to the extent that the administration made her subject to requirements which are not provided for by that provision,
- breach of the principles of sound administration, prohibition on arbitrary conduct and abuse of power, by requiring the applicant to produce evidence that she was renting a house,
- breach of the obligation to state reasons for a measure,
- breach of the principles of equal treatment and non-discrimination,
- breach of the duty to have regard to the interests of officials.

Action brought on 13 May 2005 by Mebrom NV against the Commission of the European Communities

(Case T-198/05)

(2005/C 182/78)

(Language of the case: English)

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 13 May 2005 by Mebrom NV, established in Rieme-Ertvelde (Belgium), represented by C. Mereu and K. Van Maldegem, lawyers.

The applicant claims that the Court should:

- order the European Commission to pay to the applicant the amount requested through the present application for the damage suffered by the applicant as a result of the defendant's failure to establish a system allowing the applicant to import Methyl Bromide in January and February 2005, or any other amount as further established by the applicant in the course of these proceedings or by the Court *ex aequo et bono*;
- in the alternative, rule on interlocutory judgment that the European Commission is obliged to make reparation for the loss suffered and order the parties to produce to the Court within a reasonable period from the date of the judgment figures as to the amount of the compensation agreed between the parties or, failing agreement, order the parties to produce to the Court within the same period their submissions with detailed figures in support;
- order the European Commission to pay to the applicant a compensatory interest of 8 % per annum;
- order the Commission to pay an interest of 8 %, or any other appropriate rate to be determined by the Court, calculated on the amount payable as from the date of the Court's judgment until actual payment; and
- order the Commission to pay all costs and expenses in these proceedings.

Pleas in law and main arguments

The applicant imports Methyl Bromide (MBr) in the EU. Methyl Bromide is a controlled substance within the meaning of Regulation (EC) No 2037/2000 of the European Parliament and Council of 29 June 2000 on substances that deplete the ozone layer⁽¹⁾. The applicant states that it can therefore only import Methyl Bromide subject to the presentation of an import licence and the nominal allocation of a 12-month import quota established by the defendant each year.

With the present action, the applicant claims compensation for damages allegedly suffered as a direct consequence of the defendant's unlawful failure to establish a system in accordance with Articles 6 and 7 of Regulation No 2037/2000 allowing the applicant to obtain import licences and import quotas for the import of Methyl Bromide in the European Union in January and February 2005.

In support of its application, the applicant submits that the defendant breached Articles 6 and 7 of Regulation 2037/2000, which oblige the Commission to allocate licences and quotas

for the import of Methyl Bromide in the EU for each 12-month period after 31 December 1999. The applicant submits furthermore a violation of the principles of sound administration and the duty of care, requiring the Commission to act diligently, impartially and in a timely fashion, as well as a violation of the principles of legal certainty and legitimate expectations.

The applicant states that the damage suffered by it as a result of the defendant's unlawful conduct consists of the lost profit that the applicant would have made by importing and subsequently selling Methyl Bromide during these two months.

⁽¹⁾ OJ L 244, p. 1

Action brought on 19 May 2005 by Nalocebar — Consultores e Serviços Lda. against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)

(Case T-210/05)

(2005/C 182/79)

(Language in which the application was lodged: English)

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 May 2005 by Nalocebar — Consultores e Serviços Lda., established in Funchal (Madeira), represented by G. Pasquarella and R. M. Pasquarella, lawyers.

Limiñana y Botella, S. L. established in Monforte del Cid, Alicante (Spain) was also a party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- quash the Decision of 18 March 2005 of the First Board of Appeal of the OHIM in case no. R 646/2004-1 by upholding the lawfulness of the figurative mark filed on 12 July 2000 by the applicants and published in the Community Trademark Bulletin no. 103/01 on 03.12.01;
- award the statutory costs.