

**Judgment of the Court of First Instance of 14 December 2006 — Gagliardi v OHIM — Norma Lebensmittelfilialbetrieb (MANŪ MANU MANU)**

(Case T-392/04) <sup>(1)</sup>

*(Community trade mark — Opposition proceedings — Application for the Community figurative trade mark MANŪ MANU MANU — Earlier national word mark MANOU — Refusal to register — Scope and correction of the decision of the Board of Appeal — Restriction of the application for registration — Partial withdrawal of the opposition — Legal interest in bringing opposition proceedings — Proof of use of the earlier mark — Scope of the proof of use — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)*

(2006/C 331/81)

Language of the case: Italian

**Parties**

*Applicant:* Salvatore Gagliardi (Monsummano Terme, Italy) (represented by: A. Schmitt, P. Biavati, S. Corona, lawyers)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs) (represented by: M. Buffolo, Agent)

*Other party to the proceedings before the Board of Appeal of OHIM, intervening before the Court of First Instance:* Norma Lebensmittelfilialbetrieb GmbH & Co. KG (Nuremberg, Germany) (represented by: S. Rojahn, lawyer)

**Re:**

Action brought against the decision of the Fourth Board of Appeal of OHIM of 15 June 2004 (Case R 154/2002-4), relating to opposition proceedings between Norma Lebensmittelfilialbetrieb GmbH & Co. KG and Salvatore Gagliardi.

**Operative part of the judgment**

*The Court:*

1. Annuls the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM) of 15 June 2004 (Case R 154/2002-4) in so far as it refuses the application for registration of the mark MANŪ MANU MANU, first, for 'footwear' and 'headgear' in Class 25 and second, for goods in Classes 18 and 24;
2. Dismisses the remainder of the action;
3. Orders OHIM to bear its own costs and a third of those incurred by the applicant;

4. Orders the applicant, Salvatore Gagliardi, to bear two thirds of its own costs;

5. Orders the intervener, Norma Lebensmittelfilialbetrieb GmbH & Co. KG, to bear its own costs.

<sup>(1)</sup> OJ C 284, 20.11.2004.

**Judgment of the Court of First Instance Chamber of 23 November 2006 — Lavagnoli v Commission**

(Case T-422/04) <sup>(1)</sup>

*(Officials — Promotion — 2003 promotion procedure — Refusal of promotion — Allocation of promotion points)*

(2006/C 331/82)

Language of the case: French

**Parties**

*Applicant:* Luciano Lavagnoli (Berchem, Luxembourg) (represented by: G. Bounéou and F. Frabetti and subsequently by F. Frabetti, lawyers)

*Defendant:* Commission of the European Communities (represented by: G. Berscheid and H. Krämer, Agents)

**Re:**

Annulment, first, of the list of officials promoted in 2003 in so far as the name of the applicant is not contained therein and, second, in the alternative, of the decision allocating promotion points for 2003, as regards the applicant.

**Operative part of the judgment**

*The Court:*

1. Dismisses the action
2. Orders each party to bear its own costs.

<sup>(1)</sup> OJ C 45 of 19.2.2005.