

Denmark has not contested its failure to implement requirements for the granting of permits for existing installations. It is thus uncontested that a significant number of the eight Danish installations are operated without permits under the Directive, contrary to Article 5(1) of the Directive.

<sup>(1)</sup> OJ 2008 L 24, p. 8.

**Appeal brought on 1 February 2010 by Agencja Wydawnicza Technopol sp. z o.o. against the judgment of the General Court (Second Chamber) delivered on 19 November 2009 in Case T-298/06: gencja Wydawnicza Technopol sp. z o.o. v Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

**(Case C-51/10 P)**

(2010/C 113/25)

*Language of the case: English*

#### Parties

*Appellant:* Agencja Wydawnicza Technopol sp. z o.o. (represented by: A. von Mühlendahl, H. Hartwig, Rechtsanwälte)

*Other party to the proceedings:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

#### Form of order sought

The appellant claims that the Court should:

- Annul the Judgment of the Court of First Instance of 19 November 2009 in Case T-298/2006
- Refer the case back to the General Court
- Order OHMI to bear the costs of the proceedings before the Court of Justice

#### Pleas in law and main arguments

The Appellant claims that the Court of First Instance violated Article 7 (1) (c) CTMR <sup>(1)</sup> in the it applied erroneous legal criteria in determining that the Appellant's mark was not registrable.

The Appellant further claims that the Court of First Instance violated Article 7 (1) (c) CTMR or Article 76 CTMR, or both of these provisions, in not taken proper account of the practice of OHMI as regards registration of marks consisting of numerals or indication the content of publications.

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

**Reference for a preliminary ruling from the Bundesverwaltungsgericht (Germany) lodged on 2 February 2010 — Land Hessen v Franz Mücksch OHG, Intervener: Merck KG aA**

**(Case C-53/10)**

(2010/C 113/26)

*Language of the case: German*

#### Referring court

Bundesverwaltungsgericht

#### Parties to the main proceedings

*Applicant:* Land Hessen

*Defendant:* Franz Mücksch OHG

*Intervener:* Merck KG aA

#### Questions referred

1. Is Article 12(1) of Council Directive 96/82/EC of 9 December 1996 on the control of major-accident hazards involving dangerous substances, <sup>(1)</sup> most recently amended by Regulation (EC) No 1137/2008 of the European Parliament and of the Council of 22 October 2008 <sup>(2)</sup> — the Seveso II Directive — to be interpreted as meaning that the Member States' obligations contained therein, in particular the obligation to ensure that their land-use policies and the procedures for implementing those policies take account of the need, in the long term, to maintain appropriate distances between the establishments covered by the directive and buildings of public use, are addressed to planners who have to take decisions on land-use by weighing up the public and private interests affected, or are they also addressed to the planning permission authorities who have to take a non-discretionary decision on the authorisation of a project in an already built-up area?