

**Action brought on 2 May 2002 by Sportwetten GmbH Gera against the Office for Harmonisation in the Internal Market (Trade Marks and Designs)**

**(Case T-140/02)**

(2002/C 169/72)

*(Language of the case to be determined pursuant to Article 131(2) of the Rules of Procedure — language in which the application was submitted: German)*

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 2 May 2002 by Sportwetten GmbH Gera, residing in Gera (Germany), represented by A. Zumschlinge, lawyer.

Intertops Sportwetten GmbH, Salzburg (Austria), was an additional party to the proceedings before the Board of Appeal.

The applicant claims that the Court should:

- annul the decision of the Fourth Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 21 February 2002 in appeal no R 0338/2000-4 and the initial decision of the Office for Harmonisation in the Internal Market of 2 February 2000, ref.: C000422014/1;
- declare the Community trade mark with registration no 000422014, the word and figurative mark 'Intertops', void.

*Pleas in law and main arguments*

Registered trade mark in respect of which a declaration of nullity is sought: Figurative mark 'INTERTOPS' for services in Class 42 — Community trade mark 422014

Proprietor of the Community trade mark: Intertops Sportwetten GmbH

Party applying for a declaration of nullity of the Community trade mark: The applicant

Trade mark or sign right of applicant: The German word mark 'INTERTOPS SPORTWETTEN' for services in Class 42

Decision of Cancellation Division: Dismissal of application

Decision of Board of Appeal: Dismissal of applicant's appeal

- Pleas in law:
- The registered trade mark designates services prohibited in Germany
  - The use of the trade mark for the services in respect of which it is registered is contrary to public policy and accepted principles of morality pursuant to Article 7(1)(f) of Regulation (EC) No 40/94 <sup>(1)</sup>.
  - The Office failed to take account of the requirement as to use and the significance of Article 106(2) of the Regulation.

<sup>(1)</sup> Council Regulation (EC) No 40/94 of 20 December 1993 on the Community trade mark (OJ 1994 L 11, p. 1).

**Action brought on 3 May 2002 by Vetoquinol AG (formerly Chassot AG) against the Office for Harmonisation in the Internal Market**

**(Case T-141/02)**

(2002/C 169/73)

*(Language of the case: English)*

An action against the Office for Harmonisation in the Internal Market was brought before the Court of First Instance of the European Communities on 3 May 2002 by Vetoquinol AG (formerly Chassot AG), represented by Mr Axel Kockläuner of Meissner, Bolte & Partner, Munich (Germany).

A further party before the Board of Appeal was VETO-Centre.

The applicant claims that the Court should:

- annul the Decision of the First Board of Appeal of the defendant dated 15 February 2002 in case no R 218/2001 ('the contested Decision');
- order that the costs of the proceedings be borne by the defendant.