

## EUROPEAN UNION CIVIL SERVICE TRIBUNAL

**Action brought on 17 August 2009 — Simone Daake v OHIM**

**(Case F-72/09)**

(2009/C 256/68)

*Language of the case: German*

**Parties**

*Applicant:* Simone Daake (Alicante, Spain) (represented by: H. Tettenborn, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)

**Subject-matter and description of the proceedings**

Annulment of the decision of OHIM of 12 September 2008 terminating the applicant's contract of employment and payment of damages; alleged circumvention of the provisions for an open-ended contract by means of successive fixed-term contracts.

**Forms of order sought**

- Set aside the OHIM's declaration in its letter of 12 September 2008 according to which the applicant's contract of employment with OHIM was to terminate on 31 October 2008,
- Annul the decision of OHIM of 6 May 2009 by which OHIM rejected the applicant's complaint of 12 December 2008 under Article 90(2) of the Staff Regulations,

- Order OHIM to compensate the applicant for material damages amounting to the difference between:

on the one hand, her actual salary according to the formal classification as contract staff member under Article 3a of the Conditions of Employment of other Servants from 1 November 2005 until 31 October 2008 and the unemployment benefits paid to her from 1 November 2008 until today, and

on the other hand, the salary to which she is entitled as temporary staff member under Article 2(a) of the Conditions of Employment of other Servants from 1 November 2005 until today — in the alternative, at least the salary to which she is entitled as temporary staff member under Article 2(a) of the Conditions of Employment of other Servants from 1 November 2005 until 31 October 2008 and the unemployment benefits to which she was entitled calculated according to her salary for October 2008 under Article 2(a) of the Conditions of Employment of other Servants –

and the resulting losses to retirement pension and other indemnities, salary and benefits taking into account appropriate promotion based on her performance until 1 April 2008,

- Order OHIM to compensate the applicant for the non-material damage caused by the discrimination vis-à-vis other OHIM employees in an amount to be calculated by the Court,
- Order the Office for Harmonisation in the Internal Market (Trade Marks and Designs) to pay the costs.