

**Action brought on 21 April 2008 — Victor Guedes-Indústria e Comércio v OHIM — Consorci de l'Espai Rural de Gallecs (GALLECS)**

(Case T-151/08)

(2008/C 171/74)

*Language in which the application was lodged: English*

**Parties**

*Applicant:* Victor Guedes-Indústria e Comércio, SA (Lisbon, Portugal) (represented by: B. Braga da Cruz, lawyer)

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

*Other party to the proceedings before the Board of Appeal:* Consorci de l'Espai Rural de Gallecs (Barcelona, Spain)

**Form of order sought**

- Annul the decision of the Second Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 16 January 2008 in case R 986/2007-2;
- order OHIM to refuse the grant of the registration of Community trademark No 3 710 597 in respect of the goods in classes 29 and 31; and
- order the other party to the proceedings before the Board of Appeal to pay the costs.

**Pleas in law and main arguments**

*Applicant for the Community trade mark:* Consorci de l'Espai Rural de Gallecs

*Community trade mark concerned:* The figurative mark 'GALLECS' for goods in classes 29 and 31 — application No 3 710 597

*Proprietor of the mark or sign cited in the opposition proceedings:* The applicant

*Mark or sign cited:* The national figurative mark 'GALLO' for goods in class 29; the national figurative mark 'GALLO AZEITE NOVO' for goods in class 29; the national figurative mark 'AZEITE GALLO' for goods in class 29; the national mark 'GALLO AZEITE NOVO' for goods in class 29; the Community figurative mark 'GALLO' for goods in class 29

*Decision of the Opposition Division:* Rejection of the opposition in its entirety

*Decision of the Board of Appeal:* Dismissal of the appeal

*Pleas in law:* Infringement of Article 8(1)(b) and of Article 8(5) of Council Regulation No 40/94 as the contested mark is similar to earlier marks and its use would be detrimental to the distinctive character of such, taking into account the usual practices in the relevant commercial sector as well as the other circumstances of the case.

**Appeal brought on 24 April 2008 by R against the judgment of the Civil Service Tribunal delivered on 19 February 2008 in Case F-49/07, R v Commission**

(Case T-156/08 P)

(2008/C 171/75)

*Language of the case: French*

**Parties**

*Appellant:* R (Brussels, Belgium) (represented by Y. Minatchy, lawyer)

*Other party to the proceedings:* Commission of the European Communities

**Form of order sought by the appellant**

- Annul the order of the Civil Service Tribunal of the European Union of 19 February 2008 in Case F-49/07;
- Grant the application for annulment and damages made by the applicant at first instance;
- Order the defendant to pay the costs in their entirety.

**Pleas in law and main arguments**

In the present appeal, the applicant is seeking the annulment of the order of the Civil Service Tribunal ('the Tribunal') dismissing as inadmissible the action in which he applied, first, for the annulment of his entire probationary period and all the measures produced in that connection, including the end of probationary period report, and, second, for damages by way of compensation for the loss allegedly suffered.

In support of his appeal, the applicant relies, first, on a denial of due process inasmuch as the Tribunal did not take account of certain factors and documents submitted by the applicant and, second, on an erroneous interpretation of the Rules of Procedure of the Civil Service Tribunal and the Staff Regulations of Officials of the European Communities. The applicant also relies on manifest errors in the assessment of the facts.