

**Action brought on 2 September 2005 — Aqua-Terra Bioprodukt v OHIM**

(Case T-330/05)

(2005/C 296/56)

*Language in which the application was lodged: German***Parties***Applicant(s):* Aqua-Terra Bioprodukt GmbH (Griesheim, Germany) (represented by: P.A. Müller, lawyer)*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)*Other party or parties to the proceedings before the Board of Appeal of OHIM:* De Ceuster Meststoffen NV (Sint-Katelijne-Waver, Belgium)**Forms of order sought**

The applicant claims that the Court should:

- annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market in appeal proceedings No R0984/2004-1, dated 1 July 2005;
- in the alternative, set aside and annul the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market in appeal proceedings No R0984/2004-1, dated 1 July 2005, in so far as 'biological substances, namely preparations for conditioning, reconstructing and recultivating sewage or for use in sewage treatment plants' are concerned.

**Pleas in law and main arguments***Applicant for a Community trade mark:* The applicant*Community trade mark concerned:* The figurative mark 'aqua terra' for goods in Classes 1 and 3 — Registration No 1 480 243*Proprietor of the mark or sign cited in the opposition proceedings:* De Ceuster Meststoffen NV*Mark or sign cited in opposition:* The national word mark 'AQUA-TERRA' for goods in Classes 1, 5 and 31*Decision of the Opposition Division:* Upholds the opposition which was restricted in relation to the goods in Class 1 and refusal to register all the goods in Class 1*Decision of the Board of Appeal:* Dismissal of the applicant's appeal*Pleas in law:* The contested decision infringes Article 8(1)(b) of Council Regulation (EC) No 40/94 due to an erroneous assessment of the likelihood of confusion of the two marks in opposition. Consideration was not taken of the individual goods and their similarity as required and a general evaluation was carried out instead.**Action brought on 5 September 2005 by Susanne Sorensen v Commission of the European Communities**

(Case T-335/05)

(2005/C 296/57)

*Language of the case: French***Parties:***Applicant(s):* Susanne Sorensen (Brussels, Belgium) (represented by: S. Orlandi, A. Coolen, J.-N. Louis, E. Marchal, lawyers)*Defendant(s):* Commission of the European Communities**Form of order sought**

The applicant(s) claim(s) that the Court should:

- annul the decision appointing the applicant to the post of assistant, in that it fixes her classification in grade B\*3, step 2;
- annul the decision to cancel all the points constituting the applicant's 'rucksack';
- order the Commission to pay the costs.

**Pleas in law and main arguments**

The applicant, an official of the Commission, had initially been classified in grade C2. She was successful in open competition COM/B/1/02 (at level B5/B4) and was appointed, by the contested decision of 5 August 2004, in grade B\*3, step 2. In support of her action, the applicant claims that there has been a breach of the competition notice and also of the vacancy notice, in so far as both notices provided for classification in grade B5 or B4. She claims, in the same context, that there has been a breach of Articles 4, 5, 29 and 31 of the Staff Regulations. Relying on the fact that some successful candidates in the competition were appointed before 1 May 2004 (the date of the entry into force of the amendments to the Staff Regulations) in grade B5 or B4, which correspond to grade B\*5 or B\*6 under the new denomination, the applicant also claims that there has been a breach of the principle of equal treatment and non-discrimination. She also contends that the principle that an official should have reasonable career prospects and the principle of protection of legitimate expectations have been breached, since she had a legitimate expectation of being appointed in grade B\*5 or B\*4. In that context, she claims that Article 12 of Annex XIII to the Staff Regulations, which also breaches the principle of legal certainty, is unlawful.