

*Mark or sign cited:* The national word mark 'FLEX' for goods in classes 3 and 34

*Decision of the Opposition Division:* Opposition upheld in its entirety

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

*Pleas in law:* Infringement of Articles 15 and 43(2) of Council Regulation No 40/94 as the evidence filed by Revlon (Suisse) S.A. cannot be considered valid proof of genuine use of the word mark 'FLEX' during the relevant period, neither in the UK nor in France

Infringement of Article 8(1)(b) of the Regulation as there is no similarity between the conflicting trade marks and consequently no likelihood of confusion.

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**Action brought on 30 December 2005 — Toyoda Koki Kabushiki Kaisha/OHIM**

(Case T-462/05)

(2006/C 74/51)

*Language of the case:* English

#### Parties

*Applicant:* Toyoda Koki Kabushiki Kaisha (Aichi-Ken, Japan) [represented by: J. F. Wachinger, lawyer]

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

#### Form of order sought

- Declare the decision taken by the First Board of Appeal of the Office for Harmonisation in the Internal Market of 14 September 2005, in Case R 1157/2004-1 to be void and to allow the registration of the word mark application No. 003157492 'IFS' for the goods 'steering and power steering, both for vehicles and parts therefor, excluding independent front suspension' in the international class 12, referring to the Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks,
- or, in the alternative, declare the decision taken by the First Board of Appeal of the Office for Harmonisation in the

Internal Market of 14 September 2005, in Case R 1157/2004-1 to be void, to remand the case to the Board of Appeal of the Office for Harmonisation in the Internal Market for reconsideration, and for the issuance of a new decision,

- impose the costs of the proceedings on the defendant.

#### Pleas in law and main arguments

*Community trade mark concerned:* The word mark 'IFS' for goods in class 12 — application No 3 157 492

*Decision of the examiner:* Refusal of the application in respect of all the designated goods

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

*Pleas in law:* Violation of Article 7(1)(b) and (c) of Council Regulation No 40/94 because of amongst others a wrongful definition of the relevant public and an erroneous assumption of descriptive meaning.

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**Action brought on 12 January 2006 — Republic of Poland v Commission of the European Communities**

(Case T-4/06)

(2006/C 74/52)

*Language of the case:* Polish

#### Parties

*Applicant:* Republic of Poland (represented by: Jarosław Pietras, Agent of the Government)

*Defendant:* Commission of the European Communities

#### Form of order sought

The applicant claims that the Court should:

- declare Article 2 of Commission Regulation (EC) No 1686/2005 of 14 October 2005 setting the production levies and the coefficient for the additional levy in the sugar sector for the 2004/05 marketing year (OJ 2005 L 271 of 15.10.2005, p. 12) to be invalid;
- order the Commission of the European Communities to pay the costs of the proceedings.