

**Order of the President of the Court of First Instance of 4 April 2006 — Vischim v Commission**

(Case T-420/05 R)

*(Application for interim measures — Application for suspension of operation — Directive 91/414/EEC — Urgency — None)*

(2006/C 143/62)

Language of the case: English

**Parties**

*Applicant:* Vischim Srl (Cesano Maderno, Italy) (represented by: C. Mereu and K. Van Maldegem, lawyers)

*Defendant:* Commission of the European Communities (represented by: B. Doherty, Agent)

**Re:**

Application (i) for suspension of Commission Directive 2005/53/EC of 16 September 2005 amending Council Directive 91/414/EEC to include chlorothalonil, chlorotuloron, cypermethrin, daminozide and thiophanate-methyl as active substances (OJ 2005 L 241, p. 51) and (ii) for the adoption of certain other interim measures

**Operative part of the order**

1. *The application for interim measures is dismissed.*
2. *Costs are reserved.*

**Action brought on 6 April 2006 — Demp Holding v OHIM — BAU HOW (BAUHOW)**

(Case T-106/06)

(2006/C 143/63)

Language in which the application was lodged: German

**Parties**

*Applicant:* Demp Holding B.V. (Maastricht, Netherlands) (represented by: R.-D. Härer, C. Schultze, J. Ossing and C. Weber, Rechtsanwälte)

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

Other party to the proceedings before the Board of Appeal of OHIM: BAU HOW GmbH (Hattersheim/Okriftel, Germany)

**Form of order sought**

- Annul the decision of the Opposition Division of 28 November 2003 and the decision of the Fourth Board of Appeal of 31 January 2006 in Case R 92/2004-4;
- allow the opposition and reject the application for the trade mark;
- order the OHIM to pay all the costs i.e. the costs of the opposition proceedings, the proceedings before the Board of Appeal and the present proceedings.

**Pleas in law and main arguments**

Applicant for a Community trade mark: BAU HOW GmbH.

*Community trade mark concerned:* The figurative mark 'BAUHOW' for goods and services in Classes 7, 8, 11, 19, 20, 36, 37 and 40 (Application no. 1 740 133).

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

*Mark or sign cited in opposition:* The figurative mark 'BAUHAUS' as Benelux mark no. 570 351 and as international mark no. 646 757 for goods and services in Classes 1, 2, 6-9, 11, 12, 16, 17, 19-21, 25, 27, 31 and 40 and the Irish mark application no. 2000/03158.

Decision of the Opposition Division: Rejection of the opposition.

Decision of the Board of Appeal: Rejection of the appeal.

*Pleas in law:* Breach of the right to a fair hearing and breach of Article 8(1)(b) of Regulation (EC) No 40/94 <sup>(1)</sup>, as there is a likelihood of confusion between the opposing marks.

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