Judgment of the Court (Fourth Chamber) of 29 June 2006 — Commission v Italy

(Case C-487/04)

(Failure of a Member State to fulfil obligations — Council Regulation (EC) No 1255/1999 and Commission Regulation (EC) No 2799/1999 — Milk and milk products — Skimmed-milk powder — System of traceability of skimmed-milk powder)

1. *Agriculture — Common organisation of the markets — Milk and milk products — Aid for skimmed milk and skimmed-milk powder intended for animal feed — Regulation No 2799/1999 — Conditions for granting (Commission Regulation No 2799/1999) (see paras 29-30)*

2. *Actions for failure to fulfil obligations — Examination of merits by the Court — Situation to be taken into consideration — Situation on expiry of the period laid down in the reasoned opinion (Art. 226 EC) (see para. 31)*

3. *Member States — Obligations — Failure to fulfil obligations — Retention of a provision of national law which is incompatible with Community law (Art. 226 EC) (see para. 33)*

Re:

Failure of a Member State to fulfil obligations — Infringement of Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products (OJ 1999 L 160, p. 48) and Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder (OJ 1999 L 340, p. 3) — Institution of a system of traceability of milk powder not provided for by Community legislation.

Operative part

The Court

1. Declares that by unilaterally instituting a system of traceability of skimmed-milk powder for certain uses, not provided for by harmonised provisions of Community law applicable to the sector, the Italian Republic has failed to fulfil its obligations under Council Regulation (EC) No 1255/1999 of 17 May 1999 on the common organisation of the market in milk and milk products and Commission Regulation (EC) No 2799/1999 of 17 December 1999 laying down detailed rules for applying Regulation (EC) No 1255/1999 as regards the grant of aid for skimmed milk and skimmed-milk powder intended for animal feed and the sale of such skimmed-milk powder;

2. Orders the Italian Republic to pay the costs.

Order of the Court (Fifth Chamber) of 29 June 2006 — Creative Technology v OHIM

(Case C-314/05 P)

(Appeal — Community trade mark — Article 8(1)(b) of Regulation (EC) No 40/94 — Likelihood of confusion — Application for Community word mark 'PC WORKS' — Opposition by the proprietor of the national figurative mark 'W WORK PRO' — Appeal in part clearly inadmissible and in part clearly unfounded)

1. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an identical or similar earlier trade mark registered for identical or similar goods or services (Council Regulation No 40/94, Art. 8(1)(b)) (see paras 31-32, 37-39)*