ORDER OF THE COURT OF FIRST INSTANCE (Second Chamber)
22 April 2004 *

In Case T-292/03,

Messe Berlin GmbH, established in Berlin (Germany), represented by R. Lange and E. Schalast, lawyers,

applicant,

v

Office for Harmonisation in the Internal Market (Trade Marks and Designs) (OHIM), represented by I. Mayer and G. Schneider, acting as Agents,

defendant,

ACTION brought against the decision of the Second Board of Appeal of OHIM of 5 June 2003 (Case R 646/2001-2), regarding an application for registration of the word mark HOMETECH as a Community trademark,

* Language of the case: German.

THE COURT OF FIRST INSTANCE
OF THE EUROPEAN COMMUNITIES (Second Chamber),

composed of: J. Pirrung, President of the Chamber, A.W.H. Meij and N.J. Forwood, Judges,

Registrar: H. Jung,

makes the following

Order

1 By letter lodged at the Registry of the Court of First Instance on 10 December 2003, the applicant informed the Court that it had withdrawn its application for registration of a Community trade mark and indicated that, from its point of view, there was no longer any need to adjudicate in the present case. It did not seek an order as to costs.

2 By letter lodged at the Registry of the Court of First Instance on 27 January 2004, the Office signified its agreement to the request for an order that there was no need to adjudicate. It did not seek an order as to costs.

3 Pursuant to Article 113 of the Rules of Procedure, it is accordingly sufficient to hold that, in the light of the withdrawal of the application for registration, the present action has become devoid of purpose. It follows that there is no longer any need to adjudicate (see, by way of analogy, order of the Court of First Instance of 3 July 2003 in Case T-10/01 *Lichtwer Pharma* v *OHIM — Biofarma (Sedonium)* [2003] ECR II-2225, paragraphs 16 to 18).

4 Article 87(6) of the Rules of Procedure provides that where a case does not proceed to judgment the costs are in the discretion of the Court.

5 In the circumstances of the case, as the Office has not sought any form of order as to costs, the Court considers that it is appropriate to order that each party is to bear its own costs.

On those grounds,

THE COURT OF FIRST INSTANCE (Second Chamber)

hereby orders:

1. **There is no need to adjudicate on the action.**

2. **Each party shall bear its own costs.**

Luxembourg, 22 April 2004.

H. Jung — J. Pirrung

Registrar — President