

Case T-154/03

Biofarma SA

v

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

(Community trade mark — Opposition proceedings — Earlier national word mark ARTEX — Application for Community word mark ALREX — Relative ground for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

Judgment of the Court of First Instance (First Chamber), 17 November 2005 II - 4745

Summary of the Judgment

*Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the proprietor of an earlier identical or similar mark registered for identical or similar goods or services — Likelihood of confusion with the earlier mark — Word marks ALREX and ARTEX
(Council Regulation No 40/94, Art. 8(1)(b))*

There is for professionals in the medical sector (specialist doctors, general practitioners and pharmacists) and patients a likelihood of confusion between the word sign ALREX, for which registration as a Community trade mark is sought for 'anti-allergic, steroidal, ophthalmic preparations, namely eye drops, solutions, gels and ointments used for the treatment of eye infection and inflammation' in Class 5 of the Nice Agreement, and the word mark ARTEX, previously registered in France, the Benelux countries and in Portugal for 'Pharmaceutical speciality used in the cardiovascular field; pharmaceutical, veterinary and sanitary

products; material for stopping teeth, dental wax' coming within the same class, since having regard to, firstly, the high degree of similarity between the signs in question and, secondly, the degree of similarity between the goods concerned, the differences between them are not sufficient to remove a likelihood of confusion in the perception of the relevant public.

(see paras 46, 58, 61)