

Case T-317/01

**M+M Gesellschaft für Unternehmensberatung
und Informationssysteme mbH**

v

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

(Community trade mark — Opposition proceedings — Application for verbal mark 'M+M EUROdata' — Earlier verbal mark EURODATA TV — Relative grounds for refusal — Likelihood of confusion — Article 8(1)(b) of Regulation (EC) No 40/94)

Judgment of the Court of First Instance (Second Chamber), 30 June 2004 . . . II - 1820

Summary of the Judgment

- 1. Community trade mark — Observations of third parties and opposition — Examination of the opposition — Scope — Similarity of the goods and services concerned — Analysis to be made in relation to all the goods and services covered by registration (Council Regulation No 40/94, Art. 8(1)(b))*

2. *Community trade mark — Definition and acquisition of the Community trade mark — Relative grounds for refusal — Opposition by the holder of an earlier identical or similar mark registered for identical or similar goods or services — Risk of confusion with the earlier mark — Word marks 'M+M EUROdATA' and 'EURODATA TV' (Council Regulation No 40/94, Art. 8(1)(b))*

1. In opposition proceedings brought by the holder of an earlier mark, on the basis of Article 8(1)(b) of Regulation No 40/94 on the Community trade mark, the examination of any similarity between the goods and services concerned must be carried out with reference to the list of services registered in respect of each sign in question. In this regard, the contemplated use in a particular sector or on a particular market of a trade mark for which registration is sought cannot be taken into account where that registration cannot entail a restriction to that effect.

analysis and trade research, services offering advice to businesses in the sphere of marketing and distribution' and 'seminars and other kinds of continuing training in marketing and distribution' services falling within Classes 35 and 41 under the Nice Agreement with the trade mark 'EURODATA TV' previously registered in France as an international trade mark for 'Gathering and supply of commercial information, more especially opinion surveys and polls in the audiovisual realm' services under Class 35, and in Ireland for 'Gathering and supply of commercial information'; commercial enquiries; advertising services; advising and assisting industrial or commercial undertakings; preparation and supply of trade statistics; marketing studies; market research and analysis', falling within Class 35 under the Nice Agreement.

(see para. 58)

2. For the target public, consisting of people in business likely to be interested in and attentive to the signs in question, there is no likelihood of confusing the word sign 'M+M EUROdATA', which it is sought to register as a Community trade mark for 'market research, market

Although the services covered by the application for a trade mark under Class

35 are identical to those protected by the earlier mark under the same class, and the services covered by the application for a trade mark under Class 41 are similar to those protected by the earlier mark under Class 35, the visual, aural and conceptual differences between the signs at issue constitute sufficient

grounds for holding that there is no likelihood of confusion in the mind of the targeted public.

(see paras 52, 57, 60, 63, 74, 80, 85)