

Case T-148/97

David T. Keeling

v

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

(Office for Harmonisation in the Internal Market (Trade Marks and Designs) —
Decision of the President of the Office concerning the organisation of the Boards of
Appeal — Action for annulment — Article 173 of the EC Treaty — Inadmissibility)

Order of the Court of First Instance (Third Chamber), 8 June 1998 II - 2219

Summary of the Order

*Actions for annulment — Action brought directly under Article 173 of the Treaty against a
decision of a Community body not mentioned therein, by a member of its staff — Inadmissible
(EC Treaty, Arts 4 and 173; Council Regulation No 40/94)*

An action brought directly against a decision of the President of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) by a member of a Board of Appeal of the Office on the basis of Article 173 of the Treaty must be dismissed as manifestly inadmissible.

According to the first paragraph of Article 173 of the Treaty, the Community judicature may review the legality of acts adopted jointly by the European Parliament and the Council, of acts of the Council, of the Commission and of the European Central Bank, other than recommendations and opinions, and of acts of the European Parliament

intended to produce legal effects *vis-à-vis* third parties. It follows that acts emanating from Community bodies other than those listed in that provision may not be challenged on the basis of it. The Office for Harmonisation in the Internal Market is not one of the Community institutions listed in Article 4 of the Treaty, nor is it mentioned in the first paragraph of Article 173 of the Treaty.

Moreover, such a decision is not immune from all judicial review, having regard to the remedies provided for by Regulation No 40/94 which are potentially available against it.